

**In THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

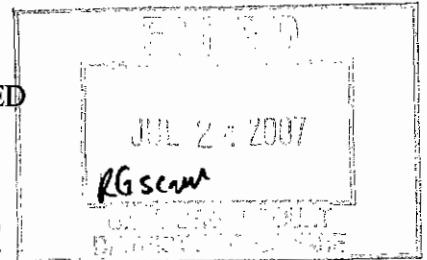
JAMES ST. LOUIS )  
PLAINTIFF )

v. )

LT. CHERYL MORRIS, et al, )  
DEFENDANT )

C. A. NO. 06-236-SLR

JURY TRIAL REQUESTED



**ANSWER TO DEFENDANTS INTERROGATORIES TO PLAINTIFF**

1. (a) Included in discovery. (b) Included in discovery (c) Included in discovery (d) Included in discovery.
2. Included in discovery
3. To plaintiffs knowledge includes but not limited to all personnel and inmates in prison system. ACLU. NEWS JOURNAL. All others included in discovery.
4. All inmates who are or were employed by the kitchen from 2000 until present and all guards included by but not limited to the same period. Included but not limited to all officers within the prison as well as all but not limited to all counselors also all included but not limited to Carl Danburg and all but not limited to his officers and commanding forces. Representative of the News Journal. Medical staff needed to explain treatment given.
5. DOC rules and regulation for procedures and any other evidence gathered through discovery along with evidence already in plaintiff's discovery.
6. Carl Danburg and any of his staff needed to explain procedures and policy of DOC as to (i) (ii) (iii) and (iv).

7. (a) JAMES ST. LOUIS (b) 054-42-9668 (c) 6/13/51 (d) Carthage N.Y. (e) 2<sup>nd</sup> year college.
8. Items matter of public record.
9. Not applicable to present case.
10. No.
11. Not applicable to present case.
12. Doc has medical records. Wife handled everything on or before incarceration and she fails to co operate.
13. None accept those since the kitchen incident. Medical records will describe all problems except my discussions with Fr. Jim Jackson because of my unable to sleep and mental anguish
14. Blood pressure raise / rashes on body / non ability to sleep / body pains / dizziness / headaches / loss of appetite.
15. medical cream for rash / pain medication for body aches
16. (a) Talking to Fr. Jackson about the mental anguish / creams for rashes / blood pressure checked every other day (b) included in medical records.
17. Yes—all paperwork included in discovery.
18. \$20,000 per defendant plus front money and any monetary award deemed fitting by the jury for emotional, physical and spiritual suffering. Talked to my legal advisors and came up with what we thought was fair. *and all legal expenses w/ 20% of reward going to prison ministry*
19. NO. (a) Prior none (b) none.
20. YES (a) included in discovery. (b) Included in discovery.
21. NONE YET. For (a) and (b).

*James St. Louis*

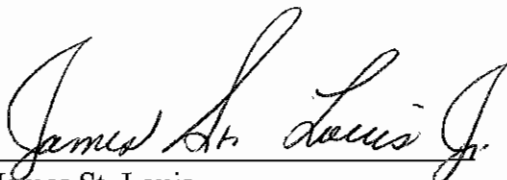
JAMES ST. LOUIS #446518

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

JAMES ST. LOUIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C. A. No. 06-236-SLR
	)	
LT. CHERYL MORRIS, et al,	)	JURY TRIAL REQUESTED
	)	
Defendants.	)	

VERIFICATION AS TO ANSWERS:

I hereby declare under penalty of perjury that the attached Plaintiff's Responses to State Defendants' Interrogatories are true and correct.

  
James St. Louis

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF DELAWARE**

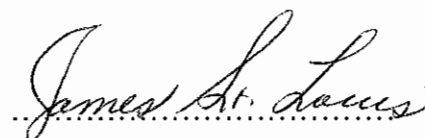
JAMES ST. LOUIS,	(	
PLAINTIFF,	(	
v.	(	C. A. NO. 06-236-SLR
LT. CHERYL MORRIS, et al	(	JURY TRIAL REQUESTED
DEFENDANTS.	(	

.....

**ENCLOSED IS FIRST BATCH OF**

**DISCOVERY**

DATE...7/21/07



JAMES ST. LOUIS

1181 PADDOCK RD.

SMYRNA DE. 19977

Sat. Oct. 15 2005 - Quick notice to Lehman

Mon. Oct 17 2005 - talked Morris about problems  
in kitchen offered to step down if it would  
be for the betterment of order. she said no.

Sund. Nov. 13 2005 Govan & St. Louis probation  
For one week per Morris (meeting)

Sund. Nov. 13 2005 Govan told entire 3rd cooks  
anyone who did not work for T-Guang would  
no pay would be fired - Govan and I  
went head to head. - 3rd cooks  
went to Johnson he called Govan into  
office after talking to me and I told  
him to let it go and recommended him  
Govan went to Morris & asked for  
my job.

Weds. Dec. 7 day off called in worked 4 HRS.

Thurs. Dec 8 called in day off for hearing on  
evidence

Frid. Dec 9 reported for work after 1 hr.  
told fired. → asked for written recommendation. 3x

SAT  
Weds. Dec. 10 Greenman filed

Jan 18 2006 letter to Jensen all about kitchen

6/26/07

Fed Civ. Judicial Procedures & Rules (pg 140)  
 243 FBJ 761  
 Supreme Court Rule 15 (e)(i)

March 12 2004 - Jersey & I had to be separated by Burtin  
 April 12 2004 - 2nd Cook

11/5/04 - Guan said to Memo & Me → has gotten red of  
 dead weight car free us to if we do not do as he orders, 4:45 PM.  
 Feb 2005 - Blood pressure problems because pressure  
 work had been taken 2-3 times a week

Aug. 2005 - Threat Ketcher by Guan

10/15 2nd notice Lehman

10/18 Morris talked want stay.

11/13 Gouan threatened all cooks if no work Thanks Guan

11/13 Gouan & I probation for week for arguing

1/24/06 letter Morris / Klein / Warden / Knight asking for Morris' <sup>current</sup> <sup>information</sup>

2/1/06 letter to Preiser

2/16/06 met with C/O Bouley

6/27/06 Amend complaint news journal

6/29/2007

Dear Counselor

I have been ordered via District Court by disclosure for Delaware Justice Dept. To produce records that would be used in my civil law suit, THESE records will include my files, ALL correspondence involving myself, PROGRAMS PSI Reports, CERTIFICATES, CLASSIFICATIONS reports AND ANY other paper work with my NAME upon or involved in or on it. I will need 3 copies AND [MUST] present it to the Dept. of Justice AND DISTRICT COURT within 30 days FROM (JUNE) the 27th OF THIS MONTH. I will also need a copy (3) OF MY LAST CLASSIFICATION AND How these points were determined AT this time I am also putting [ALL] IN FRONT OF DISTRICT COURT Judge Sue Robinson Counselors on notice AS witnesses, IF need their presents will be MADE AVAILABLE to each AS to day AND time VIA COURT paper work.

Mailed via in house  
6/29/07  
CL: file

THANK YOU  
# 446518  
James M. Lauer  
Delta East  
F 17 B



6/29/2007

To LT DeJesus

I requested a copy of a report and investigation done last year about Sg Johnson, from the Kitchen, solicited inmates to discourage me from continuing with my civil law suit. You asked me about P.C. and recommended me to do it. I believed I had nothing to hide and why should I be punished because a C/O broke the law. I told you the inmates name, HAWKINS and that he lives in 51. Now the justice dept. and the District Court has set a date they want this by Aug 15 2007. I need (3) copies of everything and what disciplinary action was taken against C/O Johnson.

THANK YOU

MAIL in House

6/29/2007

James A. Lawrence

Wells East

F-17 (B)

#446518

cc: file

P.S. report taken in E Building.



6/29/2007

To Whom it Concerns

I have a civil law suit in Delaware District Court and need (3) THREE COPIES OF MY MEDICAL RECORDS SINCE I entered the Delaware Prison System in Georgetown. I need [ALL] INFORMATION CONTAINED OR SHOULD BE CONTAINED FOR presentation to Delaware Justice Dept. AND DISTRICT COURT. IT [MUST] be in by Aug 15 2007 - So I would like [ALL] documents ASAP.

THANK YOU

James L. Lewis

#446518

Della East

F-17 (B)

Submitted per  
medical drop box  
6/29/2007

CC: files

In The United States District Court  
For The District of Delaware

James St. Louis  
Plaintiff

Civil Action No.

06-236-SLR

✓  
Lt. Cheryl Morris, Wic Chris  
Kleer, and Delaware Prisons  
(all officers and Supervisors  
including State of Delaware  
defendants

Motion For Leave To File An  
Amended Complaint

Plaintiff James St. Louis, pursuant to Rules 15(e)  
and 19(a) Fed. R. Civ. P. under Federal Rules  
of Civil Procedure Rule 59(c), requests leave  
to file an amended complaint adding and  
negating parties and addressing 8<sup>th</sup> and 14<sup>th</sup>  
Constitutional violations and Federal "precedent"  
decisions not addressed in previous submitted  
case.

1. The plaintiff in his original complaint named  
Lt. Cheryl Morris, Wic Chris Kleer, and Delaware  
Prisons (all officers and Supervisors including  
State of Delaware) as defendants
2. Since filing plaintiff has or would like

to charge dependants to read Lt. Cheryl Morris, Dir Chris Klein, administrator Michael Knight and all officers and supervisors of the prison systems in the state of Delaware (to be named later now known as John Does), who violates <sup>Constitutional</sup> ~~Constitutional~~ <sup>measures</sup> ~~measures~~

3. Plaintiff initial and most important violation was not addressed and brings it to this court's prompt attention now for it to carry out its ruling as per "precedent" setting U.S. Courts have already decided.

In *McDuffie v Estelle* 935 F.2d 682, 686 it was decided it was unconstitutional to give inmates jobs involving supervisory or disciplinary authority over other inmates because of the risk of violence or exploitation. It also says the power to hire and fire supervise and control employee work schedules is illegal. In *Carriegan v State of Delaware* 957 F.S. 1376 we read "in order to establish an 8th Amendment violation by prison officials, it must be shown that alleged deprivations was objectively sufficiently serious and that prison officials state of mind was one of deliberate indifference to inmates health and/or safety. Under *Dawson v Kendrick* 527 F.S. 1252 prisoners have the right to be secured by the 8th and 14th Amendment to be reasonably protected

from threats of violence and sexual assaults, and are [not] required to wait until they are actually injured by assaults to obtain relief from such conditions.

We also see in *Wheeler v. Owen* 870 F.2d 1400 were acknowledging in dicta that if officials has authority over relevant procedural systems, his/her action or [inaction] can constitute "established state procedure" and the official can be held liable.

4 Since initial filing of case these witnesses have come forth to verify plaintiffs accusations of threats, bribery, illegal firing and punishment by fellow inmates especially 1st Cook Arthur Dixon and acknowledged via complaints and letters to prison officials and supervisors who not only were inactive but condoned actions by standing behind and authorizing said punishments and firings per Delaware Correctional job classifications posted and verbally given to inmates.

1 WAYNE COLLAZO

4 L. Richard Russell

2 WM. HAWKINS

1 THOMAS MORGAN

3. RALPH O'DAY

8 KENNY THOMAS

4 JOSHUA FOX

4 5. HENRY DUHADAWAY



5 There are much more names but they fear retaliation if their names are printed.

6. To show prison concern a report or incident was filed per plaintiff on June 8 2006 which is included. To be added to this complaint one of the said inmates has authorized his name to be released to this court but does fear retaliation from said Sg. Johnson, officer who made these comments. His name is William Hawkins and asks the court to protect his name but will testify for the plaintiff.

7. Plaintiff is not looking for only personal compensation because of these violations but also asks for normal damages and punitive damages and asks for an injunction that others will not follow in the same violations.

8. Plaintiff ask that [all] defendants be held in their "individual" capacity as well as "official" capacity.

9. Plaintiff would also like to add as defendants the Warden and Deputy Warden as defendants through their "inactions".

10. This Court should grant leave freely to amend this complaint per *Foman v. Jones*

371 U.S. 178, 182 (1962)

6/27/2006

Respectfully submitted

James St. Louis Jr.

SB1 # 446518

1181 Paddock Rd.

Ameyra Delaware

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

Wallace E. Harden,

Plaintiff,

vs.

Ruth Ann Minner, et al.,

Defendants.

Civil Action No. 04-1392-JLF

### Amended Complaint

This is a civil rights action filed by the Plaintiff, Wallace E. Harden, pro se, pursuant to United States Statutes, 42 U.S.C.A. §§ 1983-85, seeking damages and injunctive relief for alleged violations for "cruel and unusual punishment" under the Eighth Amendment for unconstitutional retaliatory disciplinary action, and harassment for redress of grievance in violation of the First Amendment, pursuant to the Americans with Disabilities Act of 1990, §§ 201-242, 42 U.S.C.A. §§ 12131-12162, Civil Rights Act of 1991, § 112, and the Handicap Persons Employment Protection Act, as applicable to Miller vs. Beneficial Management Corp., 977 F.2d 834 (3rd Cir. 1992), Thaddeus-X vs. Blatter, 172 F.3d 378, 389 (6th Cir. 1999) (en banc); see also Deexel vs. Vaughn, Civ. A. No. 96-3918, 1998 WL 13178, at \*7 (E.D. Pa. Apr. 2, 1998) (determining that prisoner had engaged in constitutionally protected conduct before proceeding with retaliation inquiry).

Comes as following:

1. The Plaintiff is a incarcerated inmate at the Delaware Correctional Center, Smyrna, Delaware 19977.
2. Following an unknown period of time of having continuously been harassed, giving numerous discriminatory job assignments disproportionate than those given to other inmates, by than Food Services Cpl:



Jim Feitz and Tommy Young.

On Nov 1, 2003, following his complaint about Cpl. Helper a package of sugar was found in one of his coat pockets, and was approached by Cpl. Helper regarding how it got there.

4. On that same day Plaintiff wrote a letter to Sgt's Feitz and Young regarding the incident. See exhibit A-1.

5. On Jan 12, 2004, following the continual conduct of Cpl. Helper and complaints to Food Services Management officials. Plaintiff was told that his employment had been terminated (via) than Food Services Director Michael Kuyal. The reason given was management felt because of his complaints regarding Cpl. Helper, they believed he need a psychological evaluation, and could not return to work until an evaluation had been completed and they get the results thereof.

6. Plaintiff filed an institutional grievance, wrote another complaint of his employers conduct and requested an investigation into their actions. See exhibits A-2, and A-3 (GRIEVANCE ALSO ATTACHED).

7. Plaintiff further submitted separate letters to Gov. Minner, Comm: Taylor, Warden: Carroll, Ron Drake (Internal Affairs Officer for (DCC)), Dpty Bureau Chief of Management Services: English, Building Counselor: Melbourne, and Dpty Warden: Burris, requesting from each to intervene. By returning him back to work and for back pay and good time, for the period he missed work. See exhibit A(3)(2) (REVERSE SIDE OF exhibit A-3).

1. May the Court note that this discovery occurred while the Plaintiff was at work, his coat was properly secured in the inmate coat room, accessible to all inmates and officers. In accordance with (DOC/DCC) rules, any inmate found to be in possession of any substance from his or her job may be reprimanded or suspended upon final disciplinary outcome.

8. On Jan 12, 2004, Plaintiff received the Internal Affairs response from Director: Lupinetti; that stated he had found NO CAUSE FOR AN INVESTIGATION. See exhibit A-4.....

9. On Feb 12, 2004, Plaintiff submitted a second grievance regarding the matter stating that he had never received the (IGC) copy of his initial grievance or any information from his former employees when and if he was going to receive the psychological evaluation. See exhibit B-1.....

10. On March 1, 2004, under grievance NO. #146818. Plaintiff received the (IGC) Chairperson: Lisa M. Meeson's memorandum rejection notice stating that the matter was a classification issue. See exhibit B-2.....

11. On March 17, 2004, Plaintiff repeated the process with the same results. See exhibits C-1, and C-2.....

12. Sometime thereafter, Plaintiff submitted an inquiry to Mr. Melbourne regarding whether or not he had received a write-up from the kitchen. Mr. Melbourne confirmed that while he had received two past write-ups, none was from the kitchen. See exhibit D-1.....

13. On June 8, 2004, now Food Services Director: Christopher Kline issued a memo finalizing Plaintiff's termination by stating:

"Mr. GARDEN, this letter is in response our discussion on May 14, 2004, as well as the information that I have gathered pertaining to the letter you have written referencing your employment in the kitchen. First of all I would like to make clear to you that employment in this facility is a privilege, which can be lost for various reasons. From the information I have gathered I don't feel that bringing you back to the workplace at this time will be beneficial to you or the operation. During my interview with you it alarmed me that you still feel as if the staff is "out to get you". This feeling along with your expressed and documented difficulties accepting authority could potentially cause unnecessary disturbances. Your request to be reinstated is denied." See exhibit D-2.....

14. The Plaintiff truthfully can state that any counseling reports that may be found in his employment file from working in the kitchen can be link directly or indirectly to allegations of Defendant Helper.

#### CAUSE FOR ACTION

In Abdul Akbar, this ruled that in order for a prisoner to advance on a claim on retaliation. He must plead that the prison authority's decision does not advance legitimate penological goals such as preserving institutional order and discipline in dismissing him from his job. 1d. 910 F.Supp. 986, 1000-01 (D.Del. 1992). However, in Rausser, the Third Circuit held that the first prong was, a prisoner only prove that the conduct in question led to the alleged retaliation of constitutionally protected rights. 1d. 241 F.3d at 333 (citing Thoddeus-X vs. Blatter, 175 F.3d 378, 389 (6th Cir. 1999)). The second prong of Rausser requires a prisoner to show that he suffered some adverse action at the hands of prison authority's. 1d. at 333 (citing Allah vs. Seiverling, 229 F.3d 220, 225 (3rd Cir. 2000)). The third aspect requires a prisoner to establish a causal link between the exercise of his constitutional rights and the adverse action taken against him. Mount Healthy Bd. of Ed vs. Doyle, 429 U.S. 274, 287 (1977); see also Hines vs. Gomez, 108 F.3d 265, 269 (9th Cir. 1997). Both cases were public employment cases and have been adopted in prisoner retaliation cases, in accessing "adverse action". Examples in that context means discharge, demotions, refusal to hire, nonrenewal of contracts, and failure to promote. Umbehr, 518 U.S. 668, 116 S.Ct. 2342 (nonrenewal of contract), Sindermann, 408 U.S. 593, 92 S.Ct. 2694 (same). In a prison setting, an "adverse action" is comparable to transfer to segregation. Bart vs. Telford, 677 F.2d 622, 625 (7th Cir. 1982) (quoting Judge Posner) (another employment case). Ruled there is no justification for harassing people for exercising their constitutional rights (the effect on the freedom of speech) need not be great in order to be actionable. 1d. 677 F.2d at 625.



Thus, finding a "CAUSAL CONNECTION" IN A PRISONER RETALIATION CASE MEANS THERE MUST BE A "CAUSAL CONNECTION" BETWEEN THE PROTECTED CONDUCT AND THE "ADVERSE ACTION" TO COMPLETE AN AFFIRMATIVE CASE. PRISONER CASES INVOLVES SUBJECTIVE MOTIVATION ON THE BEHALF OF THE DEFENDANTS.

Crawford-El vs. Britton, 93 F.3d 813, 826 (D.C.Cir.1996) (quoting 844 F.Supp. 795, 801 (D.D.C.1994) (quoting BART). Plaintiff asserts that he has demonstrated all three prongs of Hauser, in conjunction with the mandated (DOC/DCC) Policy's under INMATE EMPLOYMENT AND COMPENSATION RIGHTS, Policy NO. #1135 (for the hiring and firing of all institutional inmates).

WHEREFORE, Plaintiff seeks damages and injunctive relief for injury caused by the herein named Defendants, for conduct performed not preserving institutional order and discipline in dismissing him from his job. But was for the redress of grievances, violating his constitutionally protected rights. Abdul-Akbar, 910 F.Supp. 986, 1000 (D.Del.1995). By which, their actions are sufficient to have deterred a person of ordinary firmness from exercising his constitution rights. Allan, 229 F.3d at 223 (3rd Cir.2000), as follows:

1. Defendant Phillis Helper is sued in her individual and official capacities acting under color of state law, for harassment in violation of his 1st Amendment Right. West vs. Atkins, 482 U.S. 42, 50, 108 S.Ct. 2250 (1988).

2. Defendants Jim Feitz, Tommy Young, Sheryl Morris, Henry Legates, Paul Downing, and Ray Wingle are sued in their individual and official capacities acting under color of state law, as conspirators in the actions of Defendant Helper. By failing to correct as supervising managers and other staff officials. CREASON vs. KEMP, 891 F.2d 829, 836 (11th Cir.1990) (A supervisor can be liable under 1983 when reasonable person in the supervisor's position would have known conduct infringed on the constitutional rights of Plaintiff, and his conduct was causally

related to the constitutional violation committed by his subordinate).

3. Defendants Michael Knight and Christopher Kline are sued in their individual and official capacities, as the Food Services Directors, acting under color of state law, for failure to adhere to their duties to uphold the laws, policies, statute, and customs of both the state and (DOC/DCC) in protecting the Plaintiff's rights. Johnson-El vs. Schoemehl, 878 F.2d 1043, 1049 (8th Cir. 1989) (liability may be found based on the breach of a legal duty that is proximately cause of injury), Williams vs. Smith, 78 F.2d 319, 323-24 (2nd Cir. 1986) (supervisor who learns of violation through report or appeal may be liable)

4. Defendant Ruth Ann Minner, is sued in her individual and official capacities as Governor of the State of Delaware, acting under color of state law, for failing to cure Plaintiff's civil rights violation upon the knowledge and evidence of the fact known to her. West vs. Atkins, 487 U.S. 42, 50, 108 S.Ct. 2250 (1988), Alexander vs. Perrill, 916 F.2d 1392, 1395 (9th Cir. 1990) (prison officials can't just sit on their duff and not do nothing to prevent violations of rights).

5. Defendant Stanley Taylor, is sued in both his individual and official capacities as Commissioner of the Dept of Corrections, acting under color of state law, for failure to act upon the knowledge of his subordinates. McMann vs. Coughlin, 689 F.2d 112, 125 (2nd Cir. 1983) (Commissioner could be liable for failure to act on knowledge of unconstitutional disciplinary practice), Morgan vs. Ward, 699 F.Supp. 1025, 1046 (N.D.N.Y. 1988) (Commissioner and prison superintendent could fairly be charged with constructive notice of defective disciplinary procedures). Including, the actions of Thomas Carroll (Wron of DCC), Elizabeth Bueris (Dpty Wron of DCC), Kathy English (Dpty Bureau Chief of Supt Serv's), and James Lupinetti (Intr Appr's Dir) are individually and officially charged with the same duties as the Commissioner's underlings when used in duty of authority in the prison context.

REQUESTED RELIEF

The Plaintiff request that the court grant the following

Relief:

A. Issue a declaratory judgment stating that \_\_\_\_\_

1. The violations against the Plaintiff's protected constitutional rights by Defendants Helper, Fritz, Young, Morris, Legates, Downing, Wingle, Knight, Kline, Minner, Taylor, Carroll, Bueris, Lupinetti and English, do demonstrate an "adverse action" under the 1st Amendment to the United States Constitution constituting a claim of retaliation against redress of grievance.

B. Issue an injunction ordering Defendants Minner and/or Taylor or his assigned designee to:

1. Return Plaintiff immediately back to work to which he was and continue to be classified to, but prevented yet still by the Defendants retaliatory hiring practices in relationship to my past grievances, that is the heart of this present action. Let the court note that Plaintiff has never caused a disruption or shown threaten behavior to fellow employees or staff personnel. Cpl: Helper who is the only link to any of the Defendants possible concerns no longer works under the Food Services division.

2. Pay back to Plaintiff all lost wages or back pay at an hourly rate of 18¢ per hours, as was his previous pay scale. For each 40 hour work week missed.

C. Award compensatory damages in the following amounts:

1. \$500 against Defendant Helper, who acted willfully, wanton and deliberately in violation of state laws, correctional policy and the constitutional rights of the Plaintiff. Smith vs. Wade, 461 U.S. 30, 39-40 N. 8 (1983).

2. \$1,000 against Defendants Fritz, Young, Morris, Legates, Downing, Wingle, Knight, Kline each for failure to correct subordinate conduct. Smith v. Wade, 461 U.S. 30, 39-40 N. 8 (1983).

3. \$1,000 against Defendant Lupinetti for failure to correct known or should have known violation of Plaintiff's constitutional rights. Smith vs. Wade, 461 U.S. 30, 39-40 N. 8 (1983).

4. \$1,500 against Defendants Taylor, Burris, Caseroll, and English each for failing to correct known or possible known violation by subordinates. Smith v. Wade, 461 U.S. 30, 39-40 n. 8 (1983).

5. \$2,000 against Defendant Minner, as executive officer of the state. She has a legal obligation to protect Plaintiff constitutional rights. Alexander vs. Perrill, 916 F.2d 1392, 1395 (9th Cir. 1990), Smith vs. Wade, 461 U.S. 30, 39-40 n. 8 (1983).

E. Award punitive damages to Plaintiff as it may be appropriately entitled, or collectively for \$5,000. Adding, that "respect for the law, particularly by officials responsible for the administration of the state's correctional system, is in itself a matter of the highest public interest". Duran vs. Anaya, 692 F.Supp. 510, 522 (D.N.M. 1986).

Respectfully submitted,

Dated: February 13, 2006

Wallace E. Harden  
DELAWARE CORRECTIONAL CENTER  
SMYRNA, DELAWARE 19977



sgt. friss or sgt. young;

11/1/03

Today, Saturday, when I got done work and went to get my coat out of the coat room, I noticed that my coat was heavy. When I checked my pockets I found a package of sugar in my pocket. I threw the package away. I don't know who put the sugar in my coat, but given recent events I believe ms. Kelper had something to do with it. I believe she was hoping I wouldn't notice it, or she could shake the coat room down and find it and try to fire me again - nothing happened Friday when I came back to work, but Saturday she comes in and this happens. could this be a coincidence, I don't steal, and this letter serves as notice if she shakes down the coatroom, or has somebody shake down and something is found in my coat. I was set up.

cc: Counselor Milbourne

Wallace Harden

Ex.A-1

Ron Drake

Jan. 15, 2004

I Wallace Harden would like to make a complaint against c/o sgt. cook ms. P. Helper, on the about Date 2-23-03 A incident that was unacceptable happen. That shouldn't of happen, it started at breakfast time this c/o sgt. Helper knows that every morning all the inmates that works in the kitchen other then the cooks are suppose to eat in D-chow by three A/M. But for some reason this ms. sgt. Helper wants to shut and lock the door to the chow hall before anybody can get to the chow hall, so this morning I asked another inmate to go and get another c/o by the name frisch to come down to make ms. Helper open the door to let a few of us inmates into the chow hall to eat, we even yell out to her through a serving line window for ms. Helper to open the door but she just sat there and ignored us, so this is when we called for sgt. frisch, so now after her and sgt. frisch have their little words a mongers each other about not closing the door until after (3) she wants to start making threats towards me about she should of fired my ass along time ago if I just keep talking and she said this because she knows everytime I have a problem with her I always go to sgt. frisch and tell him my problems about this c/o cook given me a hard time, so I tell's this c/o cook that she is not going to keep threatening me about firing me from my job, but this is not the only isolated incident that has occurred

Ex.A-2

Internal affairs

Jan. 15, 2004

on January 14, 2004. Kitchen Manager Michael Knight terminated my employment pending a Psychological evaluation. The reason that I was given for this was because I filed a complaint with Internal affairs about c/o cook Helper. c/o cook Helper has repeatedly threatened me, and when I was told "I should have fired your ass a long time ago" I complained in writing. It was not the first time. The reason was further elaborated that I did not follow the chain of command. Nothing in the Doc Procedure requires an inmate to follow a chain of command when a c/o makes threats against an inmate, Violates the code of conduct, and acts in an unprofessional manner. That said, I had complained about her to several c/o cooks Sgt. Young and Sgt. Frisch on more than one occasion, But nothing was done I do not know why c/o cook Helper has a problem with me, But she has a personal problem with me. She wants me out of the kitchen, and this is how she is doing it. I am not the only inmate who had a complaint about her behavior. I request the following. a complete and thorough investigation of c/o cook Helper, and Kitchen Manager Knight for violations of their code of conduct, and not following Doc Procedure's, I request that my job be re-instated and I be credited for all the time missed.

Ex.A-3

INTERNAL AFFAIRS UNIT

January 22, 2004

M E M O R A N D U M

TO: Inmate Wallace Harden  
SBI #00146818  
Delaware Correctional Center

FROM: James J. Lupinetti, Director *JJ*  
Internal Affairs Unit

SUBJECT: Your Letter of Complaint

\*\*\*\*\*

I have reviewed the circumstances of your request. At this time, I find no cause for an Internal Affairs investigation.

Your letter is being forwarded to Ron Drake, Institutional Management and he will contact you regarding your letter of complaint.

JJL:jd  
I.A. Case File #04-008  
Cc: File

Ex.A-4

FORM #584

GRIEVANCE FORM

FACILITY: DCC DATE: Jan. 14, 2004  
 GRIEVANT'S NAME: Wallace Harden SBI#: 00/46818  
 CASE#: \_\_\_\_\_ TIME OF INCIDENT: 08:00  
 HOUSING UNIT: E

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

On 1/14/04 Kitchen Manager Michael Knight terminated my employment in the kitchen pending a psychological evaluation. This was done because I filed a complaint with Internal Affairs regarding C/O Cook Helper who made repeated threats against me. This violates procedure as an inmate has a right to file a complaint against an officer, and not be retaliated against as a result of the complaint.  
(See attached copies of complaints)

ACTION REQUESTED BY GRIEVANT: Investigate why Kitchen Manager Knight was allowed to retaliate against grievant. Reinstate grievant to his job, and credit grievant with the pay and good time he would have earned if Manager Knight had not violated procedure and retaliated against grievant for exercising his protected rights.

GRIEVANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

WAS AN INFORMAL RESOLUTION ACCEPTED? \_\_\_\_\_ (YES) \_\_\_\_\_ (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE  
 GRIEVANT

April '97 REV

RECEIVED

FEB 04 2004

Inmate Grievance Office



FORM #584

## GRIEVANCE FORM

FACILITY: DCCDATE: 2/12/04GRIEVANT'S NAME: Wallace Harden

SBI#: \_\_\_\_\_

CASE#: \_\_\_\_\_

TIME OF INCIDENT: ONGOINGHOUSING UNIT: E

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

This is supplemental information on a previously filed grievance. I have not received a copy back with a number to give you. It was filed on 1-14-04. Kitchen Manager Michael Knight was supposed to notify Mental Health to give me a psychological evaluation when I was (suspended, terminated placed on sick leave) and depending on the results would determine my job status. Michael Knight has never contacted Mental Health. I learned this when I got tired of waiting and contacted Mental Health myself.

ACTION REQUESTED BY GRIEVANT: see previously filed grievanceGRIEVANT'S SIGNATURE: Wallace HardenDATE: 2/12/04

WAS AN INFORMAL RESOLUTION ACCEPTED? \_\_\_\_\_ (YES) \_\_\_\_\_ (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE  
GRIEVANT

April '97 REV

Ex B-1

RECEIVED  
FEB 24 2004  
Inmate Grievance Office

STATE OF DELAWARE  
DEPARTMENT OF CORRECTION  
DELAWARE CORRECTIONAL CENTER  
OFFICE OF THE INMATE GRIEVANCE CHAIRPERSON  
1181 Paddock Road  
SMYRNA, DELAWARE 19977

MEMORANDUM

To: Inmate Harden, Wallace E  
From: Cpl. L.M. Merson, Inmate Grievance Chairperson  
Date: Monday, March 1, 2004  
RE: Grievance

146 P/8  
CUC #  
3-7-04

The grievance submitted by you dated 02/13/04 is being returned to you for the following reason(s):

- ☐ The complaint was addressed by the IGC:
- ☐ Security issue (involves the security and/or staffing of the Institution and/or the safety, health, and/or welfare of inmates, staff, and the public.
- ☒ **Classification issues** (security classification, jobs, transfers, programs, housing unit assignment).  
Classification has its own appeal process. The inmate must write to the DCC Classification Office within 7 days after the inmate receives the Classification decision. The letter must state that the inmate is appealing the classification and clearly indicate the reasons the inmate disagrees with the classification decision.
- ☐ **Disciplinary issue.** Disciplinary actions cannot be grieved but must be APPEALED following the Correctional Code Of Penal Discipline.
- ☐ **Parole Board Decision.** The inmate must write a letter to the Parole Board within 30 days of the Board's decision, expressing the desire to appeal the decision and listing the reasons. The Parole Board's address is: Board of Parole; Carvel State Office Bldg.; 820 N. French Street, 5<sup>th</sup> Floor; Wilmington, DE 19801.
- ☐ Inmates cannot request or demand disciplinary action on staff. If you have a complaint regarding staff, WRITE A LETTER to that person's supervisor; in this case, that is:
- ☐ This is an issue/complaint that has already been grieved by you or another inmate.
- ☐ Grievance is unacceptable because it has passed the seven day timeframe allotted to file a grievance.
- ☐ The grievance is a photocopy, carbon copy, written in pencil, red ink or is illegible. Original grievance forms must be legible and written in dark blue or black ink.
- ☐ This complaint is addressed in the housing rules for your housing unit. Refer to the Housing Rules, page \_\_\_\_\_, for clarification and/or direction.
- ☐ Action Request is Inappropriate or not completed. Inmate must make an actual request; such as, request that an Investigation be conducted. (inmates are not forwarded results of investigations that involved staff conduct)
- ☐ Documentation must be attached to the grievance when it is resubmitted that supports allegations/complaint; such As commissary receipts, Form 537, etc. The IGC will make copies of the items submitted with the grievance and Return the originals to the inmate.

Other: FSD R-17 KT-271 + Follow-up  
cc: inmate  
Original: file

Ex.B-2



## The ISTHMUS, August 1998

Page

## Inmate Grievance Procedure

What Is Its Purpose?

- To reduce tensions in correctional facilities
- To identify and effectively resolve problems
- To eliminate and/or reduce the number of class action lawsuits

NOTE: Inmates are encouraged to seek their counselor's advice on how to best pursue a response to their concerns before prematurely filing a grievance.

What Is A Grievable Issue?

- Complaints about staffs' actions
- issues dealing with monetary accounts and records
- Institutional operations (food, clothing, commissary, housing conditions, etc.)
- Institutional programs
- Mail, telephone, and/or other Communication issues
- Law library problems

What Are Non-grievable Issues?

- Classification
- Disciplinary
- Parole board decision

NOTE: These issues must be appealed through their respective appeals' processes.

For Your Information

Grievance forms are available in the Sergeant's Office of your unit. Medical grievances have their own forms.

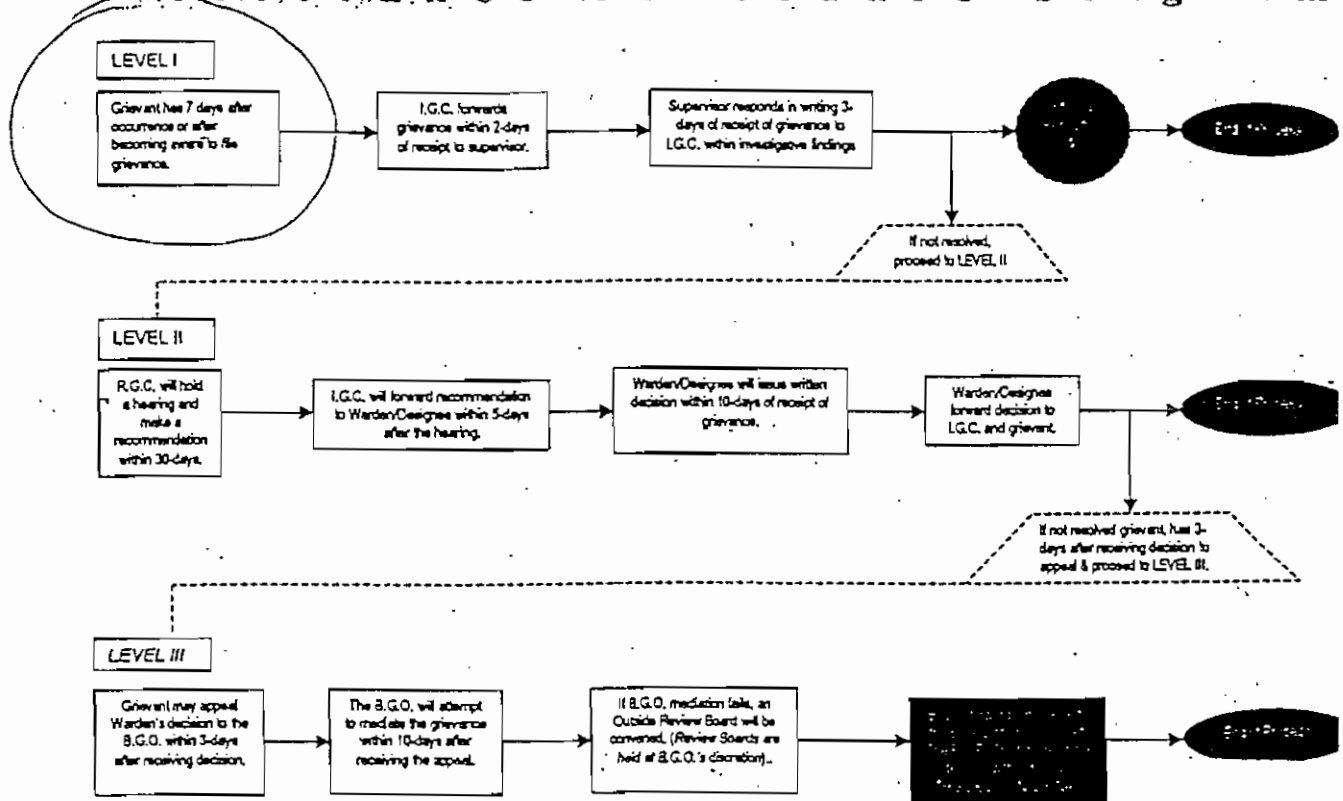
Questions regarding the grievance procedure can be addressed to Institution Grievance Chairperson, Sgt. D. M. Williams, by in-house. Sending numerous copies to various persons is not necessary. You only send one copy to the I.G.C.

The I.G.C. prohibits reprisals against inmates for their use or part in the process.

Grievances are kept separate from the inmates master file.

These and other grievance procedure guidelines are available for in your housing units Sergeant's Office.

## Grievance Procedure Diagram



Ex.B-4

FORM #584

## GRIEVANCE FORM

FACILITY: DCC DATE: 3/17/04  
 GRIEVANT'S NAME: Wallace Harden SBI#: 146818  
 CASE#: \_\_\_\_\_ TIME OF INCIDENT: on going  
 HOUSING UNIT: E

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

Two months ago to the day grievant filed grievance over actions of Kitchen manager Michael Knight Placing him on sick leave for Psychological Evaluation. Grievant's complaint was about Knight Volating Procedure. To date grievant has heard nothing from grievance office, not even an acknowledgement of the grievance.

ACTION REQUESTED BY GRIEVANT: get Process moving on Two Month old grievance. Investigate why grievance office is not Processing and following through on grievances in a timely fashion.

GRIEVANT'S SIGNATURE: Wallace Harden DATE: 3-17-04

WAS AN INFORMAL RESOLUTION ACCEPTED? \_\_\_\_\_ (YES) \_\_\_\_\_ (NO):

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE  
GRIEVANT

Ex. C-1

April '97 REV

RECEIVED  
MAR 20 2004  
Inmate Grievance O

STATE OF DELAWARE  
DEPARTMENT OF CORRECTION  
DELAWARE CORRECTIONAL CENTER  
OFFICE OF THE INMATE GRIEVANCE CHAIRPERSON  
1181 Paddock Road  
SMYRNA, DELAWARE 19977

MEMORANDUM

To: Inmate Harden, Wallace E  
From: Cpl. L. M. Merson, Inmate Grievance Chairperson  
Date: Monday, March 22, 2004  
RE: Grievance

*cc: [unclear]  
4-13-04*

The grievance submitted by you Dated: 03/17/04 is being returned to you for the following reason(s):

- ☐ The complaint was addressed by the IGC:
- ☐ Security issue (involves the security and/or staffing of the Institution and/or the safety, health, and/or welfare of inmates, staff, and the public.
- ☐ Classification issues (security classification, jobs, transfers, programs, housing unit assignment). Classification has its own appeal process. The inmate must write to the DCC Classification Office within 7 days after the inmate receives the Classification decision. The letter must state that the inmate is appealing the classification and clearly indicate the reasons the inmate disagrees with the classification decision.
- ☐ Disciplinary issue: Disciplinary actions cannot be grieved but must be APPEALED following the Correctional Code of Penal Discipline.
- ☐ Parole Board Decision: The inmate must write a letter to the Parole Board within 30 days of the Board's decision, expressing the desire to appeal the decision and listing the reasons. The Parole Board's address is: Board of Parole; Carvel State Office Bldg.; 820 N. French Street, 5<sup>th</sup> Floor; Wilmington, DE 19801.
- ☐ Inmates cannot request or demand disciplinary action on staff. If you have a complaint regarding staff, WRITE A LETTER to that person's supervisor; in this case, that is:
- ☐ This is an issue/complaint that has already been grieved by you or another inmate.
- ☐ Grievance is unacceptable because it has passed the seven day time frame allotted to file a grievance.
- ☐ The grievance is a photocopy, carbon copy, written in pencil, red ink or is illegible. Original grievance forms only and they must be written in Black or Dark Blue Ink.
- ☐ This complaint is addressed in the housing rules for your housing unit. Refer to the Housing Rules, page     , for clarification and/or direction.
- ☐ Action Request is Inappropriate or not completed. Inmate must make an actual request; such as, request that an investigation be conducted (inmates are not forwarded results of investigations that involve staff conduct).
- ☐ Documentation must be attached to the grievance when it is resubmitted that supports allegations/complaint; such as commissary receipts, Form 537, etc. The IGC will make copies of items submitted with the grievance and return the originals to the inmate.

☒ Other: Both grievances were returned to you as neither are grievable. Jobs are a classification issue and a privilege.  
cc: inmate  
Original: file

*FSD Knight - [unclear]*

*Ex: C-2*

COUNSELOR APPOINTMENT REQUEST FORM

NAME Wallace Harden

TIER B CELL # 12

I need you to check my file to find out if I have any write-ups from food service or any counsel reports from food service and if so how many. Thank you.

REASON

1. Write up For Poss. Non-Drug. Contained Mayonnaise?
2. 11-16-01 Chow #11 Feeding too big

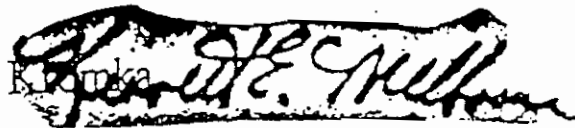
**DO NOT WRITE BELOW THIS LINE**

\* You have a lot of write-ups but only one from the kitchen

I will be able to see you on \_\_\_\_\_  
sometime between \_\_\_\_\_.

If you cannot keep this appointment, you need to inform me in writing and fill out another request form. Please have your questions and concerns together at the time of the appointment to avoid delays.

Thank you,

Counselor 

CERTIFICATE OF SERVICE

I, Wallace E. Harden, hereby certify that I have served a true and correct copy(ies) of the attached: Amended Complaint upon the following parties/person(s):

TO: Office of the Clerk  
United States District Court  
844 North King Street  
Lockbox 18  
Wilmington, Delaware 19801-3570

cc: Office of the Clerk  
to: Department of Justice  
Carver State Office Building, 6th Fl  
820 North French Street  
Wilmington, Delaware 19801

TO: \_\_\_\_\_

TO: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977, :

On this 23 day of February, 2006.

\* Wallace E. Harden

3-31-07  
I worked in the Kitchen Back in  
04 And the Head cook told me what  
I had to do, Back in the main Kitchen

Jerry Payne  
#415200 CBL2



We certify that we worked in the  
 kitchen at OCC in Smyrna, and the officers  
 there appointed inmates to be supervisors and  
 through their authority had power of punishment  
 and assigning jobs. We believe that because of this  
 authority to inmates the atmosphere there was  
 hostile and played a major role in our performance  
 because of the physical and emotional stress and  
 the constant fear of retaliation. We also have never  
 received any rules or what action will be taken for breaking  
 those rules from the prison.

Eddie D. Rliney Jr.

Hugh P. McCafferty

David Murphy

Wynne Collier

Warren Chapman

Derrick Pierce

Kenneth Thomas



To: Whom it may concern  
 From: Clyde F. EVANS SBI #205823  
 House: 1181 Paddock Road  
 Smyrna, DE 19977  
 Dated: 4-16-07

Re: To How The Main Kitchen is being ran at D.C.C.  
 (Smyrna Jail)

To: Whom it may concern,

I Clyde F. EVANS would like to inform you on the things that has been done to me and other inmate; by the %'s and the First cook in the kitchen.

I would like to inform you on a few different things that are going on in the Main Kitchen and MHU's Kitchen.

- You have inmate's as First cooks and second cooks.

- They are telling other inmates to do two or three different job.

- If you do not listen to the (inmate) First or second cook they will threat you; by demoting you or haveing you fired.

- They keep track of you attendance;

{ If you miss days for sick call or a visit they are not suppose to hold it against you; But they do. }

- When you miss like six or seven day in a month on to the First cook (inmate) will tell you if you miss other day you'll be demote."

- % will demote a person for something and give them 90 days in a different position.

- %'s and %/T's will ~~try~~ demote and then when you try to get your job (position) back them might not.

{ they will tell you that you have 90 working day; }  
 { When it first start off as 90 reagly day }

- %/T's have also gave some people a raise and some did not receive a raise.

{ People that work for 8 monthy recieve a raise where a }  
 { Person that work there for a year and get demote }  
 { ~~did~~ did not recieve one }

- 4/7 Morris has told me that I would not get a position back that I was demote from for a 90 day period.

These is just some of the thing I have seen and have heard.

I would like to thank you for your time in this matter. I would appreciate it if you would let me know you decide.

Respectfully thank you.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JAMES ST. LOUIS,	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-236-SLR
	)	
Lt. CHERL MORRIS, et al. ,	)	
Defendant.	)	

MOTION TO AMEND PLEADING

Plaintiff moves to amend is pleading pursuant to Fed. R. Civ. P. 15(a), and in support of motion, states:

Plaintiff, JAMES ST. LOUIS, pursuant to Rules 15(a) and 19 (a) Fed. R. Civ. R. under Federal Rules of civil procedures Rule 59 (e), request leave to file an amended complaint adding defendants not addressed in previous submission . In support of this action plaintiff uses Judge Robinson's #8 dated 4/16/2007 Memorandum Order giving petitioner option to Amend complaint adding defendants; (A) 1.RALPH HEVERIN 2. DAVID PIERCE 3.BERNIE WILLIAMS 4. MICHAEL McMAHON 5. ANTHONY RENDINA. The plaintiff uses the following facts, rules, and statutes to argue this motion (B) 1.In U.S. v. Goodwin 102 S.Ct. 2485 the Supreme Court said due process of law is violated when government vindictively attempts to penalize a person from exercising existing protected statutory or constitutional rights. U.S.C.A. 5, 14.2. In Griffin v. Spratt 969 F2d 16 the 3<sup>rd</sup> Circuit said due process is violated if a written statement by factfinder of evidence is [NOT] presented to plaintiff and this was done in both instances by all (see letters inclosed requesting this information) 3. The nucleus of this argument is deeply seeded in 06-236-SLR and both cases are embroiled in the same alligations. 4. The (5) individuals in this case were involved in an APPEAL NOT A DISCIPLINARY action of plaintiff initiated by plaintiff [2 ] Months after disciplinary action was taken by Lt Morris. (see

exhibits enclosed). 5. All (5) defendants were notified about appeal but to no avail. Petitioner was sentenced to (5) days CTQ and was sent to the MHU for (138) days denying him his minimum status and priveledges for in their own rules was a minor infraction. (see rules 4.2 listing infraction and class it falls under). 6. Under "clearly establish" 11 Del. 6535 ,it says every inmate "SHALL" receive a copy of the rules and prison regulations along with procedures for dealing with violations ;acknowledged by Del. Supr. Court in ROSS v. D.D.O.C. 697 A2d377; WHICH ALL PARTIES INVOLVED HAS YET TO DO (see Texaco Inc. v. Short 102 S. Ct. 781 and procedures from Bureau of Affairs--Hope v. Pelzer 122 S.Ct. 2508) that prison sentenced petitioner to a class 1 sentence for a class 2 infraction at an appeals hearing. (see inclosed exhibites). 7. Petitioner also wished to add mailing from 10/27/2006 as evidence of appeal which includes letters asking for an appeal and being granted. 8. The S.Ct. in PARROTT v. TAYLOR says all state officials who fail to follow p rescribed procedures (statutes) guaranteed under due process CAN AND MUST be held accountable under § 1983. 9. Under the S.CT. ruling in Hunter v. Bryant all individuals though they have qualified immunity can and must be held accountable and it is the duty of this court to protect the rights of all inmates when they see a violation of statue and/or constitutional magnitude thus inforcing an injunction to mandate prison officials to follow existing statute and void any disciplinary action until this is done.

Submitted this 1 day of May 20 07

James St. Louis Jr.

Delaware Correctional Center  
1181 Paddock road  
Smyrna, DE 19977

*Petitioner ask for legal fees including  
mailing and monetary reimbursements a jury  
trial deems fit.*



*Miscellaneous  
10/15/2006*  
In the United States District Court  
For the District of Delaware

James A. Lewis  
Plaintiff

✓  
Ralph Heenan  
David Priece  
Officer Bernie Williams et al.

Motion For leave to File Pertinent  
evidence not available until recently  
as provided by ACLU under freedom  
of information act.

Plaintiff James A. Lewis pursuant to  
Civil Rights Act 42 USC 1983 filed  
on 10/14/2006 regarding procedural  
due process violations would like  
to add exhibits and explanations  
below.

1. exhibit A

- A. note date of incident
- B. note disciplinary types
- C. violations recorded

2. exhibit B

- A. date on form of grievance
- B. date of return on back

3. exhibit C

A. return letter from deputy Warden addressing appeal with date and assigned officer.

4. exhibit D and E

A. date officer first looked into appeal (top right)

B. nature of hearing.

5. exhibit F

A. last appeal from Chief of Bureau denying defendant due process.

The argument brought forth for defendant is one of violation of procedures by the State of Delaware Correctional Center and officers involved in this complaint per their own procedural manual (exhibit G)

In manual it list Class I and Class II offenses and what each are and how to handle these hearings. On page 5 it list Class I hearings and procedures to page 8 where Class II offenses begin.

If you check violations on defendant's sheet all his charges are Class II despite an individual identifying them as Class I.

Also on page 6 it list sanctions and continues on page 9 with Class II sanctions

It also says that with a Class II violation all penalties are given out by supervising authority unless you already have 3 write ups, then the 4th is a Class I. Defendant has [no] other write ups not even a 24 hours loss of all privileges. As read in Class II hearings.

Appeals are addressed next for Class I and Class II which was not followed per departments own procedures.

Defendant asked numerous times for a copy of rules from law library and building 40 and was denied access saying they are prohibited from giving out to inmates.

It also addresses how a Class I or Class II offense has to be forwarded to the watch commander for review before punishment is handed out. This was never done. Defendant's report was only addressed because defendant pushed the issue as a false report for retaliation in the kitchen. Procedures also say that once a Class II hearing is done which I was terminated with no other punishment. Upon appeal no further punishment can be handed out. Defendant received 5 days confined to quarters.



and was classified to a higher security housing unit with less freedom and access to law library and other activities like church and bible study which defendant has been denied. (see exhibit H)

Defendant first is asking for an injection for defendant to return to his minimum security classification, expunge of incident from records, return to building where defendant was housed.

Defendant also ask this court to order the Delaware Correctional Prison System to post in a relevant and high traffic location the procedures and listings of all disciplinary actions so this unfortunate incident doesn't repeat itself.. Defendant also ask like previously all personally in their official and individual capacity those who in activity and non activity be held accountable. monetary and sanctions permitted and any other relief deems appropriate by this court.

James A. Louis

Disciplinary#  
1022173DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

Date: 12/09/2005

**DISCIPLINARY REPORT**

Disciplinary Type: <u>Class1</u>		Housing Unit: <u>Bldg E</u>		IR#: <u>1028348</u>	
SBI#	Inmate Name	Inst. Name	Location Of Incident	Date	Time
00446518	StLouis, James J	DCC	Bldg.14 Food Prep. Area	12/07/2005	12:00

Violations: 2.01/200.105 Abuse of Privileges, 2.10/200.213 LyingWitnesses: 1. N/A 2. N/A 3. N/A**Description of Alleged Violation(s)**

On The Above Date And Approx. Time I/M James St. Louis Was Terminated For Lying And Abuse Of Privileges/M James St. Lou Told Me, Fssii Boring That Chicken Parmesan And Bread Pudding W/ Raisins Was Approved By Director Klein. I/M Lied To Me Fs. Boring About The Approval Of The Products.

Reporting Officer: Boring, Mary M (FS Specialist I & II)**Immediate Action Taken**Immediate action taken by: Boring, Mary M -FS Specialist I & II

404 Written

**Offender Disposition Details**Disposition: N/A Date: N/A Time: N/A Cell secured? NoReason: N/ADisposition Of Evidence: N/A**Approval Information**Approved: ☐ Disapproved: ☐ Approved By: ( )Comments: N/A**Shift Supervisor Details**Date Received: \_\_\_\_\_ Time: \_\_\_\_\_ Received From: ( )**Shift Supervisor Determination:**

- ☐ Upon reviewing this Disciplinary Report, I conclude that the offense may be properly responded to by an immediate revocation of the following privileges(see reverse side) for \_\_\_\_\_ hours not to exceed 24 hours)
- ☐ Upon reviewing this Disciplinary Report, I conclude that the offense would be properly responded to by Disciplinary Hearing

I have received a copy of this notice on DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ and have been informed of my rights to have a hearing and to present evidence on my own behalf. I understand, if found guilty, I will be subject to imposition of sanctions outlined in the Rules of conduct.

Preliminary Hearing

Officer: \_\_\_\_\_

Offender: \_\_\_\_\_

StLouis, James J

*Exhibit A*



#22285

## GRIEVANCE FORM

FACILITY: Bldg. 14 Food Prep Area DATE: 12/10/05  
GRIEVANT'S NAME: JAMES ST. LOUIS SBI#: 00446518  
CASE#: ~~Disciplinary # 1022115~~ TIME OF INCIDENT: Report 12:00  
HOUSING UNIT: E

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

see sheet included (3) to explain grievance.

ACTION REQUESTED BY GRIEVANT: apology from Ms Boeing  
and reinstatement and back pay from  
main kitchen and struck for my  
word.

GRIEVANT'S SIGNATURE: James L. Lewis DATE: 12/10/05

WAS AN INFORMAL RESOLUTION ACCEPTED? \_\_\_\_\_(YES) \_\_\_\_\_(NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.**

cc: INSTITUTION FILE  
GRIEVANT

exhibit B

April '97 REV

RECEIVED  
DEC 13 2005

10:30 AM talked to Harney to see grievance officer

12/9/05 9:50 AM

I left Building E to go to Kitchen to work upon entering Kitchen I handed my pass to officer Wagner and proceeded into Kitchen to coat room and then to set up for today's work. After getting the count and needs for diet cooks I noticed a sign up on the door one officer for 2nd cooks. I saw I/M Coles and asked him about it. He explained that I was terminated and he was told to run the floor.

I proceeded to Lt. Lehman's office and upon entering asked him if I was terminated. He said he just received an E mail outlining suspension pending termination of our come of hearing. And told me spec. Barng wrote up this order. I asked him what for and could I get a copy of it. He proceeded to enter his computer and gave me a copy of said order. We talked for awhile and he said his advice to me is chill for awhile and give it, and was sure the truth would come out sooner or later.

I left and went back to my building where I noticed the write up was dated 2 days ago at noon.

facts:

#1. Around Thanksgiving time me (cooks) were preparing a Thanksgiving day meal and Ms. Barng asked if we were going to have bread pudding I responded and told her no we were having sweet potato pie instead. She said she always

add raisins to her bread pudding and wouldn't it be nice if we could do it here. I told her probably but I didn't know when we were going to have it. She asked me to let her know so she could bring in some raisins for workers chow and I said I would. In the mean time Mr. Greenwell (a second cook) told me Mr. Giron (1st cook) and himself met with Mr. Cline (head of kitchen) and was told if we had enough bread after making stuffing for Thanksgiving he could do bread pudding sometime.

Now two weeks ago we had chicken patties and had 200 left over from lunch which I put in the freezer. And last Monday we had spaghetti and meat sauce left over from dinner that was put in the cooler. I said to Mr. Giron it would be nice if this week we had chicken patties w/sauce and bread pudding and he agreed says ask zone one if we can do it Thursday since it is a terrible meal. I proceeded to zone 1 and asked officer Johnson if he was in charge Thursday and he said yes.

And I asked to run something by him I told him of Greenwell's conversation about Kline OKing bread pudding

and I told him about the chicken patty and sauce and ask if it would be alright with him if we had them Thursday and he said it was O.K.

Upon leaving your unit I saw Mr. Boring and told her we were having Bread pudding and chicken patty and sauce Thursday and she said she wanted to bring in raisins. I told her to talk to Mr. Greenwell because he had Kline's permission and that she should clear it through him. She immediately went to Greenwell and discussed the issue upon completion told me she was going to check Mr. Kline.

The next thing I know I have Wednesday off but worked 1/2 a day (which was the 7<sup>th</sup> worked to 1pm) and no one said anything to me. Thursday I was called into the kitchen at 1:30 pm to see Lt Morris and Lt. Lehman to answer questions about the supposedly meal. I did not go into work Thursday because I was told by 3<sup>rd</sup> Cooks Wednesday night at 5 pto that the meal was canceled and was asked if I was O.K. No one mention the meeting or suspension until this AM.

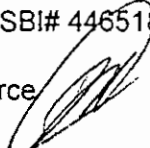
12/8





STATE OF DELAWARE  
DEPARTMENT OF CORRECTION  
OFFICE OF THE DEPUTY WARDEN  
DELAWARE CORRECTIONAL CENTER  
1181 Paddock Road  
SMYRNA, DELAWARE 19977  
Telephone: (302) 653-9261  
Fax: (302) 659-6668

MEMORANDUM

TO: IM James St. Louis SBI# 446518 E D33B  
FROM: Deputy Warden Pierce   
DATE: February 7, 2006  
RE: Disciplinary

---

I received your letter dated February 1 2006, regarding a disciplinary you received and have forwarded your concerns to Hearing Officer Williams for his action.

DP/dc  
Attachment  
cc: S/Lt Williams  
File

*exhibits C*



#44658 E Bldg.  
D33B

RECEIVED

2/1/06

FEB 02 2006

Dear Deputy Warden Pierce

DEPUTY WARDEN I

Sir I am writing you because I can not get an answer to my problem. On Dec. 7 2005 Officer Boring, from the Kitchen, wrote a disciplinary report #1022173 which said I lied to you for my own personal gains. I worked pass the 1200 hour this report was done and upon asking 2 times if I was fired was told no by Lt. Lehman from the Kitchen. On December 9 2005 I was told about this disciplinary report, 2 days later, and was given a copy of it but was also told by Lt. Lehman I was suspended pending a disciplinary hearing and that I should file a grievance on this action. Upon my return to my building I asked the building officer in charge to call to C/O in charge of prison so I could put forth a complaint. I was told he would be over as soon as he was free, that was about 9:40 AM December 9 2005, and I still haven't seen him. I asked two more times and was told to be patient. I decided to write my grievance and presented it to the building C/O who placed it in the grievance box on 12/10/05.

As of January 24, 2006 I had heard nothing about my grievance or my

disciplinary hearing and wrote a letter to the Warden, the Grievance Officer, Chris Klein, Michael Knight and Lt S. Morris explaining to them that I have yet received my 8th Am rights to due process by [not] having a disciplinary hearing and also requested information which I tried to get from law library and the building 40 about kitchen disciplinary hearing, which I was told does not exist. I told them about the witnesses I would like to call for my hearing.

Now we come to today 2/1/06 I received back from the Grievance Officer my paper work telling me I can not receive a disciplinary action. The first time I did a grievance was about Counselor Mc Mann and the physical threats and was told I could not grieve that. What exactly can be grieved? I do not understand. I do want a disciplinary hearing and have a right to one and will go to civil federal court for one.

I am in the process of obtaining a lawyer you are all familiar with civil law suits I don't want any problems only what the law says I can get and that's to be treated fairly and respect, as [not] happening.

I'm not going to threaten anyone by I am telling you this I've made copies of everything and sent them out to my son and told him to go to the papers with both grievances. If I do not feel him progress is being made.

I'm so so sorry for having to involve you but as an officer told me who gave me some money. If we had competent C/O here we knew what was right and how to do it. I wouldn't have to address this to you.

See I'm not an angel but I also do not lie and I will not admit something I did [not] do or have something on my record I did not do without fighting with everything I have at hand. I was told if I push this issue there could be repercussions. The only thing I say to that is God protects those who trust in Him and nothing happens without His say-so.

I hope we can address this issue and come to a fast solution.

Thanks for your  
time  
Jim St. Louis  
446518  
out D33

1022173

Smyrna Landing Road

SMYRNA DE, 19977

Phone No. 302-653-9261

**DISCIPLINARY REPORT**Disciplinary Type: Class1Housing Unit: Bldg EIR#: 1028348

SBI#	Inmate Name	Inst. Name	Location Of Incident	Date	Time
00446518	Stlouis, James J	DCC	Bldg.14 Food Prep. Area	12/07/2005	12:00

Violations: 2.01/200.105 Abuse of Privileges, 2.10/200.213 LyingWitnesses: 1. N/A2. N/A3. N/A**Description of Alleged Violation(s)**

On The Above Date And Approx. Time I/M James St. Louis Was Terminated For Lying And Abuse Of Privileges/M James St. Louis Told Me, Fssii Boring That Chicken Parmesan And Bread Pudding W/ Raisins Was Approved By Director Klein. I/M Lied To Me Fssii Boring About The Approval Of The Products.

Reporting Officer: Boring, Mary M (FS Specialist I & II)**Immediate Action Taken**Immediate action taken by: Boring, Mary M -FS Specialist I & II

404 Written

**Offender Disposition Details**Disposition: N/ADate: N/ATime: N/ACell secured? NoReason: N/ADisposition Of Evidence: N/A**Approval Information**Approved: ☒Disapproved: ☐Approved By: Lee, Bradley Jr. (Staff Lt./Lt)Comments: N/A**Shift Supervisor Details**Date Received: 02/15/2006Time: 13:57Received From: Boring, Mary M**Shift Supervisor Determination:**

☐ Upon reviewing this Disciplinary Report, I conclude that the offense may be properly responded to by an immediate revocation of the following privileges(see reverse side) for \_\_\_\_\_ hours not to exceed 24 hours)

☒ Upon reviewing this Disciplinary Report, I conclude that the offense would be properly responded to by Disciplinary Hearing

Lee, Bradley Jr. (Staff Lt./Lt)

Recd  
Disp  
V

I have received a copy of this notice on DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ and have been informed of my rights to have a hearing and to present evidence on my own behalf. I understand, if found guilty, I will be subject to imposition of sanctions outlined in the Rules of conduct.

Preliminary Hearing  
Officer: \_\_\_\_\_

Offender: \_\_\_\_\_

Lee, Bradley Jr.

Stlouis, James J

exhibit D



DR #

1022173

Date: 2/16/06

DCC Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

NOTICE OF DISCIPLINARY HEARING - FOR MINOR/MAJOR OFFENSE

To: Inmate: St Louis, James J. SBI#: 00 446518 Housing Unit: E

1. You will be scheduled to appear before the Hearing Office to answer charges pending against you. (Staff are to explain the charges as listed on the 122)

2. At that time, a hearing will be held to determine whether you violated Institutional Rule(s) as alleged in the attached Disciplinary Report.

How do you plead? ☐ Guilty ☒ Not Guilty

3. A "Minor Offense" is a rule violation in which the extent of the sanction to be imposed shall be restricted to:

- a. Written Reprimand.
- b. Loss of one or more privileges for a period of time of more than 24 hours but less than 15 days.

4. A "Major Offense" is a rule violation in which the extent of the sanction to be imposed shall be restricted to:

- a. Loss of one or more privileges for a period of more than 15 days but less than 60 days.
- b. Confinement to assigned quarters for a period of time not to exceed 30 days.
- c. Isolation confinement for a period of time not to exceed 15 days.
- d. Loss of good time for a period of time not to exceed 30 days. (Forfeiture of accumulated good time shall be subject to the approval of the Commissioner or his designee.)

5. You have the rights in the disciplinary process as stated on the lower and back of this page. These have been fully explained to you at the time of this notification.

6. Counsel requested? ☐ Yes ☒ No Name of Counsel: \_\_\_\_\_

7. Confront accuser? ☒ Yes ☐ No

8. Witness requested? ☒ Yes ☐ No Name of Witness: Im Greenwell, Bryon  
FSS Morris, Cheryl  
FSS III Johnson, A.

I certify that on 2/16/06 at \_\_\_\_\_  
(Date) (Time)

I served upon the above inmate this notice of Disciplinary Hearing for Minor/Major Offense and the Disciplinary Report is attached hereto.

[Signature]  
(Employee's Signature & Title)

I have received copies of 122 & 127 and understand my rights as Form #127 has been read to me.

[Signature]  
(Inmate's Signature)

Letter to C/O Disciplinary Office  
for director Klein - I/m Jovan  
C/O Lt. Lehman / also no response  
for fast sending from Lt. Morris



DR#  
1022173

DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

Date: 03/10/2006

## DISCIPLINARY HEARING DECISION

Inmate : Stlouis, James J SBI#: 00446518 Type: Class 1

Institution: DCC Delaware Correctional Center Hearing Date: 02/23/2006 Time: 12:37

Inmate Present: Yes Reason(If No): N/A

Violation: 2.01/200.105 Abuse of Privileges, 2.10/200.213 Lying

Inmate PLEA: Not Guilty

Inmate Statement: Because I didn't do what she said I did.

Witness Name: Greenwell, Bryon *was not present*

Testimony : Lt. Morris state's Mr greenwell said nothing about raise for bread pudding  
Sgt. Johnson, Andre state's He know nothing of this bread pudding W/Raisins

Witness Name: Morris, Cheryl

Testimony : N/A

Witness Name: Johnson, Andre

Testimony : N/A

Decision : Guilty

Rational : Accuser state's I/M said he got the approved from Mr. Klein. After listen to Lt. Morris an Sgt. Johnson I find I/M Guilty  
of all charges

Sanctions: N/A

HEARING OFFICER'S SIGNATURE

Heverin, Ralph

I understand that I may appeal the decision of a Class II Hearing to the Class I Hearing Officer. I may appeal the decision of a Class I Hearing to the facility administrator. I also understand that I have 72 hours to submit my notice of appeal in writing to the Class I Hearing Officer if I am appealing a Class II Hearing decision or the Warden if I am appealing a Class I Hearing decision.

I ☒ DO ☐ DO NOT INTEND TO APPEAL

INMATE's SIGNATURE

## ORDER TO IMPLEMENT SANCTIONS

☐ Inmate does not wish to appeal ☒ Appeal has been denied by Commissioner or Designate

☐ Sanctions have been modified ☐ Time Limit(72 Hours since hearing) for appeal has expired

It is here by ordered to implement the sanctions:

Sanctions	Start Date	Days	End Date
1. Confinement to Quarter	04/10/2006	5	04/14/2006

DR #
1022133

Date: 2-23-06

DCC Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

**DISCIPLINARY HEARING DECISION**
☒ Class I (Major)    ☐ Class II (Minor)    ☐ Summary (24 Hour LOAP)

Inmate: Stallion, Taron SBI#: 00 446518  
Institution: Delaware Correctional Center Hearing Date: 2-23-06 Time: \_\_\_\_\_

Inmate Present: ☒ Yes    ☐ No

Reason (If No): \_\_\_\_\_

Violation: 200.115 HP 700.213 Lying  
Inmate Plea: Not Guilty  
Inmate Statement: Because I didn't do what she said I did.

Witness Name: Stallion, Taron Heard nothing about  
Testimony: Board meeting w/ Prisoner

Witness Name: Det. Tolson Heard nothing of this  
Testimony: Board meeting w/ Prisoner

Witness Name: \_\_\_\_\_  
Testimony: \_\_\_\_\_

Decision: ☒ Guilty    ☐ Not Guilty    ☐ Further Investigation  
Rational: Prisoner said he got the appeal from the Prisoner, the test  
to St. Martin + Det. Tolson is find the truth of all charges

Sanctions: 5 Days ITA  
Hearing Officer's Signature: [Signature]

I understand that I may appeal the decision of the Hearing Officer (or Shift Supervisor in the case of a Summary Sanction) to the Commissioner of Correction or his designee. I must complete a Disciplinary Appeal Form within 72 hours immediately following the hearing and mail it to the DCC Hearing Office.

☒ I do intend to appeal.☐ I do not intend to appeal.

Inmate's Signature \_\_\_\_\_

**ORDER TO IMPLEMENT SANCTIONS**

☐ Inmate does not wish to appeal    ☐ Appeal has been denied by Commissioner or Designee  
☐ Sanctions have been modified    ☐ Time Limit (72 hours since hearing) for appeal has expired

Modifications: \_\_\_\_\_  
It is hereby ordered to implement the sanctions or modified sanctions on Date: \_\_\_\_\_ Time: \_\_\_\_\_

exhibit F

DR#

1022173

DCC Delaware Correctional Center

Smyrna Landing Road

SMYRNA DE, 19977

Phone No. 302-653-9261

Date: 03/02/2006

Inmate : StLouis, James J

SBI#:00446518

Type: Class 1Institution: DCC Delaware Correctional CenterHearing Date: 02/23/2006Time: 12:37**MEMORANDUM**To : StLouis, James JFrom : Chief, Bureau of PrisonsRE : APPEAL DECISION**1. Confinement to Quarter**Your appeal ☐ Accepted ☒ DeniedThe decision of hearing ☒ Affirmed ☐ Reversed ☐ Remanded for further proceedingsThe sanction imposed by hearing officer will ☒ Remain as imposed by the Hearing Officer ☐ Reduced**The basis of this decision is as follows :**

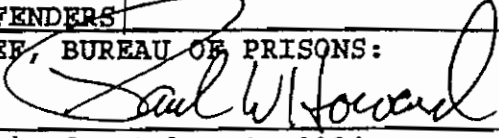
The reports support the guilt. your appeal contains no evidence to support a change.{SLD}

This report has been reviewed by Rendina, Anthony J

Date Reviewed 03/02/2006

*Letter sent  
disappointment  
journal  
attorney*

*exhibit F*

STATE OF DELAWARE	PROCEDURE NUMBER:	PAGE:
BUREAU OF PRISONS	4.2	1 OF 18
PROCEDURE MANUAL	RELATED ACA STANDARDS:	
	29	
CHAPTER: 4 DECISION MAKING RELATING TO OFFENDERS	SUBJECT: RULES OF CONDUCT	
APPROVED BY THE CHIEF, BUREAU OF PRISONS:		
		
EFFECTIVE DATE: Revised October 1, 2004		

- I. **AUTHORITY:** DOC Policy 4.2
- II. **PURPOSE:** To establish reasonable rules of conduct and a system of penal discipline for inmates under the jurisdiction of the BOP. The purpose of discipline is to correct behavior. The least serious sanction needed to correct the inmate's behavior should be used.
- III. **APPLICABILITY:** All BOP employees, volunteers, persons or organizations conducting business with the BOP, all inmates under the supervision or custody of the BOP. This procedure will not be used at Delaware Correctional Center. The Corrections Code of Penal Discipline will be used at DCC.
- IV. **DEFINITIONS:**
- A. **ATTEMPT:** An act which constitutes a substantial step in a course of conduct planned to result in the commission of a rule violation and/or criminal offense.
  - B. **CLASS I OFFENSE:** Violations, which are termed a major misconduct and are considered serious.
  - C. **CLASS II OFFENSE:** Violations, which are termed a minor misconduct and are considered less serious.
  - D. **CONTRABAND:** Article, substance or thing which is not authorized by the Department of Correction, obtainable through the institutional commissaries, specifically permitted by applicable prison regulations, or otherwise specifically authorized by the Warden, and the accumulation of authorized items beyond the established limit.
  - E. **INTOXICATION:** Condition in which a person's powers of self-control have been impaired because of the consumption of alcohol and/or drugs.

STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.2	PAGE: 2 OF 18
SUBJECT: RULES OF CONDUCT		

- F. LEAD WORKER: An employee who continuously works in a limited supervisory capacity as a function of the employee's normal duty assignment.
- G. PRIVILEGES: Benefits conferred upon the inmate population by institutional regulation including commissary, recreation (including tier recreation), telephone calls, and visits, which may be temporarily revoked for violation(s) of the Rules of Conduct.
- H. PROHIBITED AREA: Any area to which an inmate is not authorized to be present.
- I. RESTITUTION: Repayment for property taken, damaged or destroyed by an inmate.
- J. RIGHT: Anything guaranteed by law, which may not be revoked as a disciplinary sanction.
- K. SUMMARY ACTION: Action taken by an authorized person without benefit of a disciplinary hearing. The sanction for Summary Action shall be from the time it is imposed, not the time of the incident.
- L. UNIT SUPERVISOR: An employee of the rank of Lieutenant or higher with supervisory responsibilities over a unit or sub-unit within a facility.
- M. WATCH COMMANDER: An employee of the rank of Lieutenant or higher with supervisory responsibilities over an entire facility during the employee's shift and/or tour of duty. (May be a Sergeant in smaller institutions)?
- N. WILLFULLY: Conscious purpose to engage in the conduct or cause the result.
- V. PROCEDURE: This procedure will be construed according to the fair meaning of its terms; to correct behavior, not punish; to utilize the least restrictive sanction that achieves desired behavior; to promote justice; and to accomplish the following general objectives:
  - A. Promote the safety and welfare of everyone within the institution.
  - B. Promote the efficient administration and operation of the institution.



STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.2	PAGE: 3 OF 18
SUBJECT: RULES OF CONDUCT		

- C. Define what conduct is prohibited in the institution and state the Sanctions that may be imposed to punish such conduct. Prisoners of the Department shall have access to those portions of the disciplinary rules which would result in a disciplinary action or loss of privileges. This access may take form as posted bulletin boards, law library file copies, housing unit postings, or other general notice formats approved in advance by the Commissioner. Individual copies of specific disciplinary rules will be made available at the inmate's written request and expense, in similar manner to other law library document requests.
- D. Prevent arbitrary or retaliatory treatment of inmates accused or convicted of offenses.
- E. Prescribe penalties that are proportionate to the seriousness of the offenses.
- F. Provide a climate of certainty within which both correctional staff and inmates will have a clear picture of the relationship of each to the other and each to the interests of the institution.

Upon the reasonable belief of an institutional staff member that an offense has been committed, he/she should consider if a Summary Action, Class I disciplinary report or Class II disciplinary report is required. If the determination is made that the action requires Summary Action it shall be completed as outlined in this procedure. If a disciplinary report is required, the report shall include:

- A. The specific rule (s) violated.
- B. The facts surrounding the incident. Conjecture or conclusion shall not be made by reporting staff.
- C. The names of the witnesses to the incident, if any.
- D. The disposition of any evidence involved.
- E. Any immediate action taken.
- F. The date and time of the offense.
- G. The signature of the reporting staff member.

The disciplinary report should be submitted before the end of the shift, and must be submitted within 24 hours. All staff members listed as witnesses on the disciplinary report should submit an Incident Report (Form 404). These reports will be turned in to the Watch Commander.

STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.2	PAGE: 4 OF 18
SUBJECT: RULES OF CONDUCT		

The Watch Commander reviews the disciplinary report to determine if the report is complete. The Watch Commander or designee determines if the violation is a Class I or Class II offense. If the violation is one designated as requiring pre-hearing detention, the Watch Commander or designee (Lieutenant or higher) reviews the report with the inmate and records the inmate's statement about the charges on the form. This should be done at the time of or soon after the inmate is moved to pre-hearing detention.

For other Class I or II the Watch Commander or designee Lead Worker Class II, Lieutenant or higher Class I will review the report with the charged inmate, record the inmate's statement about the charges and provide the inmate with a copy of the disciplinary report. This will normally be done on the shift the report is written or within 24 hours if circumstances do not permit it. In all cases the report will be provided to the inmate at least 24 hours before the hearing.

Inmates assigned to pre-hearing detention will have their Class I hearing not less than 24 hours nor more than 72 hours (excluding weekends and holidays) after placement in pre-hearing detention.

**PRE-HEARING DETENTION:** The following offenses are considered serious and should require automatic pre-hearing detention:

- A. Arson
- B. Assault
- C. Engaging in a Riot
- D. Escape and Attempt to Escape
- E. Felony
- F. Fighting
- G. Homicide
- H. Inciting to Riot
- I. Restraint
- J. Sexual Assault

STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.2	PAGE: 5 OF 18
SUBJECT: RULES OF CONDUCT		

Watch Commanders may, at their discretion waive automatic pre-hearing detention. They may impose pre-hearing detention for any Class I Offense when deemed necessary.

For any other offense not listed, the inmate may remain in his existing status unless the inmate is considered a threat to other inmates, staff, or himself sufficient to warrant pre-hearing detention. When pre-hearing detention is ordered by the Watch Commander for offenses not listed as requiring pre-hearing detention, the Warden must review such order within 24 hours. Failure to review pre-hearing detention may return the inmate to his previous status. Any time spent in pre-hearing detention should be credited against any subsequent sanction imposed. All inmates on pre-hearing detention will have their status reviewed every 24 hours.

The inmate will be given the reasons for pre-hearing detention in writing, and the inmate will have the opportunity to respond to the charges and the pre-hearing detention order.

#### CLASS I HEARINGS:

All Class I hearings will be conducted by an impartial Hearing Officer, who should not have had direct supervisory responsibility over the accused inmate during the six month period immediately preceding the hearing. A hearing officer will be disqualified to preside over hearings in which he witnessed the incident in question, was involved in preparation of the charge, or is otherwise biased against the inmate who is the subject of the hearing. The hearing officer will be of rank no lower than lieutenant and may be a supervisor from the nonuniformed staff.

The stipulation requiring six months of no direct supervisory contact may be waived for small facilities with inmate populations of less than 250 that lack sufficient staff of the rank of lieutenant or higher to comply with this requirement.

At the Class I Hearing, the inmate is entitled to the following:

- A. An opportunity to be present during the hearing, except that he may be excluded during the

STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.2	PAGE: 6 OF 18
SUBJECT: RULES OF CONDUCT		

Hearing Officer's deliberations and at any time the inmate's behavior becomes disruptive to the proceedings. Reasons for such exclusion will be recorded in writing.

- B. The accused inmate may consult with counsel or counsel substitute prior to the hearing. At the hearing, an inmate may be accompanied by a counsel substitute who may be either a staff member or an inmate approved by the Hearing Officer. The extent to which counsel substitutes may present an inmate's case at a disciplinary hearing is within the discretion of the Hearing Officer taking into consideration such factors as illiteracy and intelligence of the inmate, the complexity of the issues under consideration, and any other factors which may prevent the inmate from making a reasonable presentation on his own behalf.
- C. Copies of any written information which the Hearing Officer may consider will be provided to the inmate except where disclosure of such information would be hazardous to institutional safety or could endanger the physical safety of an individual. Reasons for non-disclosure will be stated in writing.
- D. An opportunity to make a statement and present documentary evidence on his behalf including written witness testimony.
- E. An opportunity to call witnesses and/or present written statements on his behalf unless doing so would be irrelevant, redundant, or hazardous to institutional safety and security, or could endanger the physical safety of any individual. Such reasons for denial will be stated in writing. The Hearing Officer may also deny witnesses if the Hearing Officer stipulates to or will agree to the testimony that would have been given. Such stipulation or agreement will be made in writing.
- F. An opportunity to confront and cross-examine his accuser and all adverse witnesses, unless doing so could be hazardous to institutional safety, order and security or could endanger the physical safety of the witness. Such reasons for denial will be stated in writing.

At any time during the hearing, the Hearing Officer may exclude evidence, although relevant, if its evidential value is outweighed by considerations of undue delay, waste of



STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.2	PAGE: 7 OF 18
SUBJECT: RULES OF CONDUCT		

time, or needless presentation of cumulative evidence; such reasons shall be stated in writing.

At any time during the hearing, the Hearing Officer on his own motion, may order an investigation into the incident and continue the hearing at a future time. If the hearing officer finds the facts do not support the charge but do support a different charge, he/she may change the charge and proceed with the hearing.

#### DECISION AND RECORD OF FINDING:

At the conclusion of the hearing the Hearing Officer shall announce the decision and sanction. The decision and the evidence used to reach that decision will be put in writing and a copy will be given to the inmate. The imposition of any of the sanctions may be suspended and the inmate may be placed upon probation for a period of time not to exceed 90 days. No sanction shall be implemented during the period of time that a decision is under appeal.

The Hearing Officer's written record of the hearing should be completed at the hearing and include:

- A. The Hearing Officer's decision.
- B. The sanction imposed.
- C. A summary of the rationale upon which the decision and sanction were based.
- D. A list of all witnesses and a summary of their testimony.
- E. A statement as to whether the sanction is stayed during an appeal and the reasons for that decision.
- F. The date and time of the hearing.
- G. The signature of the Hearing Officer.

All hearing reports of Class I write ups resulting in a finding of guilt will be retained in the inmate's permanent record in the Records Section of the facility.

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SUBJECT: RULES OF CONDUCT		

\*\* 1.29 Refusal to Participate in Classified Treatment Program  
Willfully refusing to participate in Bureau sanctioned treatment programs

\*\* 1.30 Refusal to comply with Sex Offender Registration Procedures  
Willfully refusing to comply with registering as a sex offender.

1.31 Conspiracy to Commit a Class I Offense

CLASS II OFFENSES:

2.01 Abuse of Privileges: Willful violation of any institutional regulation dealing with a privilege.

2.02 Bartering: Unauthorized buying, selling, trading, lending, or giving of gifts. Taking, exercising control over or otherwise using the property of another person with or without the consent of the owner. Lending of property or anything of value with or without the expectation of anything in return.

2.03 Creating a Health, Safety, or Fire Hazard: Activities which create a situation dangerous to the health or safety of persons within the institution or create a danger of fire within the institution, including but not limited to dirty cell, lack of personal hygiene, smoking in an unauthorized area, and excessive accumulation of personal property.

2.04 Damage or Destruction of Property Under \$10: Tampering with, damaging or destroying property belonging to the state of Delaware or to another person when the replacement value of such property is less than \$10.

2.05 Disrespect: Words, actions, or other behavior, which is intended to harass employees, volunteers, or visitors including cursing, abusive language, writing, or gestures directed at the person.

2.06 Failing to Obey an Order: Disobeying any verbal or written order that does not constitute a Class I violation. Including but not limited to refusal to work and/or violation of posted rules in the housing unit or work area where there is no threat to institution security.

2.07 Gambling: Organizing or participating in wagers or games for personal gain, money or anything of value.

2.08 Horseplay: Any physical contact or attempted physical contact between two or more persons done in a jesting or playful manner, without anger or intent to injure or intimidate. This includes but is not limited to towel snapping at others, body punching, or attempted physical wrestling, etc.

2.09 Late for Appointments/Assignments: Late for any work assignment, program assignment, medical appointments, etc.

STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.2	PAGE: 15 OF 18
SUBJECT: RULES OF CONDUCT		

2.10 Lying: Making a false statement to a Department of Correction staff person with intent to deceive such staff member. This includes false information for personal gain from good time earnings or compensation.

2.11 Off Limits:

- A. Failing to report as prescribed to an appointed place of duty or assignment or to any other place when directed by the valid order of a staff member.
- B. Leaving without permission from an appointed place of duty or assignment or any other place.
- C. Entering or remaining in a prohibited area.
- D. Being in area for the purpose of committing a Class I violation would make Off Limits a Class I Offense.

2.12 Possession of Money and Coin Under \$1: Possession of money, coin, currency or other forms of legal tender under \$1.

2.13 Possession of Non-dangerous Contraband: Possession or control of any contraband, which by its nature does not present a substantial threat to the safety of persons within the institution. This also includes, but is not limited to, any article of clothing that is not specifically authorized to be worn and excessive accumulation of authorized items, and after January 1, 1993, cigarettes and other smoking materials.

2.14 Unauthorized Communication: Any contact by letter, gesture, or verbally, with an unauthorized person or in an unauthorized manner, including but not limited to passing property on a visit either directly or through a third person, communication with a visitor through any channel other than visiting room, or unauthorized use of telephone.

2.15 Conspiracy to Commit a Class II Offense

**SANCTIONS:**

**CLASS I OFFENSES:**

A Class I Offense, as defined in the Definitions Section, is a rule violation in which a more severe sanction may be imposed than permitted for a Class II offense. Sanctions which may be imposed for a Class I offense include:

- A. Loss of one or more privileges for a period of time of not more than 90 days. The following are not considered privileges and cannot be revoked:

1. Education

STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.2	PAGE: 16 OF 18
SUBJECT: RULES OF CONDUCT		

3. Counseling Services
4. Drug/Alcohol Rehabilitation Programs
5. Regular Work Assignments
6. Religious Services
7. Legal Access (Law Library)

- ~~B.~~ Confinement to assigned quarters for a period of time of not more than 15 days.
- C. Isolated confinement for a period of time not more than 90 days.
- D. Loss of good time up to and including all good time earned.
- E. Restitution.

#### CLASS II OFFENSES

A Class II Offenses, as defined in the Definitions Section, is a rule violation in which the extent of the sanctions to be imposed shall be restricted to:

- A. Written reprimand.
- B. Loss of one or more privileges for a period of time of not less than 24 hours but not more than 5 days. The same list of programs that cannot be revoked as listed on page 15 under sect A of Sanctions for Class I Offenses apply for this section.
- C. Confinement to assigned quarters for a period of time not to exceed 5 days.
- D. Summary Action.
- E. By mutual agreement the inmate may be assigned extra work assignments in lieu of any other sanction for a Class II offense.



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## IMPOSITION OF SANCTIONS:

- A. Where an offense constitutes both a rule violation and a criminal offense under state or federal statute, the inmate may receive internal disciplinary action and receive up to the maximum sanction. In addition the inmate may be referred for criminal prosecution and receive whatever sanction a court may impose.
- ~~B.~~ Any combination of authorized sanctions for a specific class violation may be imposed for a single violation. Such combination of sanctions must be imposed concurrently; i.e., 5 days isolation and 15 days cell confinement, the inmate would serve 5 days in isolation and 10 days on cell confinement for a total of 15 days.
- C. Consecutive sanctions may not be imposed except for separate violations. When a single incident contains more than one separate violation, the inmate may be disciplined for each. Sanctions may be imposed for each violation to run concurrently.
- D. When imposing sanctions, the Hearing Officers should consider the full range of penalties in each case and make the penalty fit the particular offense. The least sanction necessary to obtain compliance with the rules is intended.
- E. Forfeiture of accumulated good time is subject to the approval of the Warden.
- ~~F.~~ A finding of guilt on a Class I offense can be grounds for reclassification to more secure confinement.
- G. The Hearing Officer will place a check mark in the "Offender Present" block of the DACS Disciplinary Hearing screen to confirm that the offender was present during all phases of the Disciplinary Process and the offender was notified of the sanction imposed upon him, and his right to appeal. The inmate's signature is not required on any form during the Disciplinary Process.

## RESTITUTION:

- A. The Hearing Officer may order restitution for the cost of property that has been taken, damaged or destroyed by an inmate where such property is not recovered in the same condition as existed prior to the taking.

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- B. Where the Hearing Officer has found the existence of such a rule violation and ordered that restitution be made, and such order has not been reversed on appeal, the administrative officer of the institution shall enforce the order by attaching the inmate's account for the amount of restitution ordered. Where the account has no funds, it will be attached for 1/2 all income until the judgment is paid.
- C. The amount of restitution ordered shall be the replacement value of the item taken, damaged or destroyed.

#### SUMMARY ACTION:

- A. Upon observing inmate misconduct staff may determine that it is a minor offense properly responded to by an immediate revocation of one or more privileges or confinement to assigned quarters for a period of time not to exceed twenty-four hours. The employee will notify the Unit Supervisor when placing Summary Action on an inmate. Summary Actions will be entered into DACS; however, they will not be considered in future Classification or Disciplinary Processes.
- B. When an inmate commits a rule infraction that is a Class II Offense, the staff requesting Summary Action will write a Form A25. The inmate will be called into the office and informed of the sanction which shall be up to 24-hour loss of all privileges, 24-hour cell confinement or up to 24 hours extra work. The inmate will sign the A25 indicating that he/she accepts the sanction. If he/she refuses to sign, a Class II disciplinary report will be written in lieu of summary action.

All Wardens should develop facility SOPs to implement this procedure. These SOPs may not deviate from the general format of this procedure, but may allow for the unique differences between facilities.

Inmates may be administratively transferred pending classification or reclassified to more restrictive security levels for violations of the Rules of Conduct. This may occur through an accumulation of a combination of Class I and/or Class II offenses or a single serious offense.

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**CLASS II HEARINGS:**

Class II hearings shall be held by the Unit Supervisor/Lead Worker on the shift that the Class II violation occurred.

At the Class II Hearing, the inmate is entitled to the following:

- A. An opportunity to be present during the hearing.
- B. An opportunity to make a statement and present documentary evidence.

Unless the Unit Supervisor/Lead Worker feels additional testimony is necessary, his decision may be based on the disciplinary report, the statement of the inmate, and any other relevant information presented at the hearing.

The Unit Supervisor/Lead Worker will state in writing, utilizing the Disciplinary Hearing Report Form; his findings, the rationale, and the sanctions imposed. The inmate will receive a copy of the written decision and will be advised of his right of appeal. All hearing reports of Class II write ups resulting in a guilty finding will be placed in to the housing unit's working file. An inmate working file shall be forwarded to any facility/unit that an inmate is transferred to.

Three guilty findings for the same Class II offense in a six-month time period will automatically convert the fourth same offense to a Class I hearing.

**APPEALS:**

The inmate will be advised of his/her right to appeal the decision of the Class I Hearing Officer to the Warden or Warden's Designee and will be provided with an appeal form presented from the DACS Disciplinary Module. The inmate will be advised of his right to appeal the decision of the Class II Hearing to a Class I Hearing Officer.

All appeal forms must be completed and forwarded to the Hearing Officer within 72 hours of the inmate receipt of the written record of the hearing. FAILURE TO COMPLY WITH THIS TIME LIMIT WILL CONSTITUTE GROUNDS FOR DISMISSAL OF THE APPEAL.



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Upon filing of the appeal form, the Hearing Officer shall grant a stay of any sanction imposed at the disciplinary hearing until an appeal decision is rendered. If no appeal form is filed within the stated time period or the inmate indicates in writing that he does not intend to appeal, the sanction shall be implemented.

All appeals of Class I offenses will be heard by the Warden or Warden's Designee. All appeals of Class II offenses will be heard by a Class I Hearing Officer. The appeal decision will be in writing and should be rendered within ten (10) working days of receipt of the appeal. A copy of the appeal decision goes to the inmate.

The official hearing the appeal may affirm the decision, reverse the decision, or remand the decision back to the Hearing Officer for further proceedings. Sanctions may be reduced but not increased.

If for any reason an inmate is found not guilty of an offense, Class I or Class II, it shall be so noted in DACS.

#### PROCEDURES FOLLOWING CRIMINAL MISCONDUCT:

Upon the determination of the Watch Commander or the Hearing Officer that an inmate has committed a state or federal criminal offense, the Warden or his designee will be notified. The proper law enforcement authority will then be notified. Administrative disciplinary proceedings may be pursued in addition to possible criminal prosecution. Any disciplinary hearing for this alleged offense will be conducted in accordance with this procedure, and the inmate will be advised that he may choose right to remain silent in the hearing and that his silence will not be construed adversely against him at the hearing.

#### PROCEDURES FOLLOWING AN EMERGENCY:

In the event of an institutional disruption, which requires emergency action, any or all portions of these regulations may be temporarily suspended by the Warden in writing. Any inmate involved in the emergency may be detained without a hearing throughout the course of the emergency. Upon the restoration of order, all inmates who were detained will be disciplined in accordance with this procedure.



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**CLASS I OFFENSES:**

**1.01 Arson:** Intentionally or recklessly starting a fire or causing an explosion. Inmate may also be referred for criminal prosecution.

**1.02 Assault:** Physical attack on or intentional contact of another person by one or more persons, done either in anger, or with the purpose of abusing or injuring another; striking with feces, urine, or other physical objects; physical resistance of or interference with an employee. Injury is not necessary but contact is. Inmate may also be referred for criminal prosecution.

**1.03 Bribery:** Giving, offering or promising anything of value to any employee, volunteer, visitor, or person or organization conducting business with the BOP:

- A. To influence any act within the realm of responsibility of said person.
- B. To induce said person or persons to do or omit from doing any act in violation of their responsibility.

**1.04 Damage or Destruction of Property (over \$10):** Any destruction, removal, alteration, tampering, or other misuse of property belonging to the state of Delaware or to another person when the replacement value of such property exceeds \$10. This includes but is not limited to tampering with or blocking any security or locking device, breaking windows, destroying blankets, clothing, or mattresses.

**1.05 Demonstrations (Strike):** Inciting or urging two or more inmates to engage in a disturbance involving non-violent conduct which substantially disrupts the normal functioning and operation of the institution. Participating in a disturbance involving nonviolent conduct, which substantially disrupts the normal functioning and operation of the institution.

**1.06 Disorderly or Threatening Behavior:** Words, actions, or other behavior expressing any intent to injure, which intends to place another in fear of being assaulted. This includes, but is not limited to attempted assault, threats of

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sexual assault made by one inmate to another, or writing threatening letters to another person.

**1.07 Engaging in a Riot:** Participating in a riot, which is in existence at the time of this act. However, an inmate who is merely present at the scene of an ongoing riot is not guilty of an offense under this section, provided that he moves to a designated area after being directed to by proper authority. Inmate may also be referred for criminal prosecution.

**1.08 Escape and Attempt to Escape:** Leaving or attempting to leave the confines of an institution or from official custody while beyond the confines of the institution, or failing to return to official custody within an institution following temporary release from an institution. Inmate may also be referred for criminal prosecution.

**1.09 Extortion, Blackmail or Protection:** Demanding of or receiving from another person, anything of value in return for protecting that person from others or refraining from committing bodily injury or sexual assault on that person.

**1.10 Failure to Abide by Sanctions or Conditions of a Class I or II Disciplinary Disposition:** Breaking a condition of restitution or other sanction.

**1.11 Falsifying Physical Evidence and/or Influencing a Witness:** While believing that an official proceeding or an official investigation is pending or about to be instituted:

- A. Altering, destroying, concealing or removing anything with intent to impair its authenticity or availability in such proceeding or investigation.
- B. Presenting or using anything knowing it to be false, with intent to deceive staff or anyone who is or will be a member of such proceeding or investigation.
- C. Attempting to cause a witness to testify falsely or to withhold any testimony or information or other evidence.
- D. Committing any act prohibited by these rules in retaliation for anything done by another person in his capacity as a witness.

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E. Soliciting, accepting or agreeing to accept any benefit in return for providing false testimony or information or withholding any testimony or information or other evidence.

1.12 Felony: Any act that would be a felony under state or federal law is also a major misconduct. Inmate may also be referred for criminal prosecution.

1.13 Fighting: Physical confrontation between two or more persons, including a swing and miss, done with anger or intent to injure. This includes fights between inmates, whether with fists, broom handles, weapons, or other physical objects.

1.14 Forgery, Counterfeiting: Unauthorized reproduction of any signature, document, article of identification, money, security, or official papers; knowingly possessing a falsified or altered document; altering or falsifying document with the intent to deceive or defraud.

1.15 Giving a False Alarm: Willfully communicating a false report concerning a fire, explosion, or other catastrophe or emergency where the report is likely to cause the evacuation of a building or to cause the staff to respond in alarm.

1.16 Homicide: Causing the death of another person by any means. Inmate may also be referred for criminal prosecution.

1.17 Inciting to Riot: Inciting or urging a group of two or more inmates to engage in a current or pending riot or commanding, directing, instructing, or signaling a group of two or more inmates to cause, continue or enlarge a riot. A "riot" is a disturbance involving an assemblage of three or more persons whose conduct creates a threat of damage or injury to property or persons and disrupts the normal functioning of the institution. An inmate may be found guilty of Inciting to Riot even where no riot actually occurs as a direct or indirect result of his urging. Inmates may also be referred for criminal prosecution.

1.18 Possession of Dangerous Contraband: Unauthorized possession of weapons, physical objects that could be used as weapons, explosives, acids, caustics, materials for incendiary devices or escape materials; possession of "critical" tools and material or dangerous tools and



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materials. This includes but is not limited to gasoline, sulfuric acid, lye, prison-made knives, and pipe bombs. After 1/1/93, matches and lighters are added to this list. ~

1.19 Possession of Money and Coin Over \$1: Possession of money, coin, currency or other forms of legal tender such as certificates of deposit, stocks, or bonds.

1.20 Possession of Staff Clothing: Possession of any article of clothing which is identifiable as part of or an accessory to the Department of Correction staff uniform.

1.21 Receiving Stolen Property: Receiving or possessing property of another person knowing that it has been stolen or believing that it has probably been stolen.

1.22 Refusal to Cooperate in Drug-Abuse Testing: Willfully refusing to provide a urine sample, to breathe into a breathalyzer or to participate in other drug-abuse testing.

1.23 Restraint: Willfully restraining another person under circumstances, which may expose the other person to a risk of bodily injury. This includes, but is not limited to kidnapping or the taking of a hostage. Inmate may also be referred for criminal prosecution.

1.24 Sexual Assault: Sexual contact with another person without that person's consent, including but not limited to rape, intentional touching of sexual areas (buttocks, breasts, genitals) without consent, kissing or embracing without consent of one who is kissed or embraced. Inmate may also be referred for criminal prosecution.

1.25 Sexual Misconduct: Sexual contact with another person with that person's consent; indecent exposure; excessive kissing, hugging or unauthorized touching of visitors; and possession of wearing apparel designed for the opposite sex.

1.26 Substance Abuse: Possession, use, selling, introduction, or under the influence of any intoxicant, inhalant, controlled substance or imitation, or any other substance which may be used to cause a condition of intoxication; possession of excessive amounts of ingredients used for the manufacture of alcoholic beverages, possession of drug paraphernalia including but not limited to such items as needles, syringes, roach clips, pipes, etc.

1.27 Theft: Any unauthorized taking of property.

1.28 Refusal to Cooperate in DNA Testing: Willfully refusing to provide a blood sample as required to comply with Federal or State Court sanctioned testing.



October 11, 2006

James St.Louis, 446518

22

AU5

I will be preparing your classification this month. Building 21 is maximum security. Let's talk about that more at classification. I will leave my recommendation blank until we talk.

---

Per your request, here is your breakdown for classification.

- 6 - Severity of offense
- 0 - Open charges
- 0 - Escapes
- 0 - Age
- 0 - Prior convictions 10 years prior to the start date of this sentence
- 2 - Points for number of write-ups in the last 18 months
- 3 - Points for most severe write-up in the last 5 years
- 2 - Points for programming/not programming, working or being terminated from work
- 3 - Points for time remaining on your sentence.

The total points are 16 points with a review of 06/07. However, I have approval to review your classification this month. Counselor McMahon and Lt. Porter were on the MDT of that classification.

Thank you, and see you soon.

Cindy Atallian

Counselor - 22

*mailed  
10/14/06*

(Rev. 5/05)

FORM TO BE USED BY A PRISONER IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §1983

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

(1) James St. Louis 446518  
(Name of Plaintiff) (Inmate Number)  
Delaware Correctional Center  
1181 Paddock Road Angola, La  
(Complete Address with zip code) 70511

(2) None  
(Name of Plaintiff) (Inmate Number)

None  
(Complete Address with zip code)

(Each named party must be listed, and all names  
must be printed or typed. Use additional sheets if needed)

vs.

(1) RALPH HEVERIN  
(2) DAVID PIERCE  
(3) OFFICER<sup>BIENNE</sup> WILLIAMS et al.  
(Names of Defendants)

(Each named party must be listed, and all names  
must be printed or typed. Use additional sheets if needed)

(Case Number)  
(to be assigned by U.S. District Court)

## CIVIL COMPLAINT

☒ Jury Trial Requested

## I. PREVIOUS LAWSUITS

A. If you have filed any other lawsuits in federal court while a prisoner, please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

ST. Louis v MORRIS et al 1:06-cv-236  
Judge Sue Robinson Doc # 11 9/26/2006

ST Louis v Wilson et al 1:05-cv-38  
Judge Sue Robinson 2005

## II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

In order to proceed in federal court, you must fully exhaust any available administrative remedies as to each ground on which you request action.

- A. Is there a prisoner grievance procedure available at your present institution? ☒ Yes • • No
- B. Have you fully exhausted your available administrative remedies regarding each of your present claims? ☒ Yes • • No
- C. If your answer to "B" is Yes:
1. What steps did you take? took complaint to Deputy WARDEN AND He assigned a Lt to investigate Appeal.
  2. What was the result? AFTER INVESTIGATION decide to hold ANOTHER disciplinary hearing despite investigator agreeing that original disciplinary report was vindictive.
- D. If your answer to "B" is No, explain why not: \_\_\_\_\_

## III. DEFENDANTS (in order listed on the caption)

- (1) Name of first defendant: RAIPH HEVERIN
- Employed as HEARING OFFICER at DELAWARE CORRECTIONAL CENTER
- Mailing address with zip code: 1181 Paddock Road  
SMYRNA DE. 19977
- (2) Name of second defendant: DAVID Deputy WARDEN Pierce
- Employed as Deputy WARDEN at DELAWARE CORRECTIONAL CENTER
- Mailing address with zip code: 1181 Paddock Road  
SMYRNA DE. 19977
- (3) Name of third defendant: HEARING OFFICER WILLIAMS
- Employed as HEARING OFFICER at DELAWARE CORRECTIONAL CENTER
- Mailing address with zip code: 1181 Paddock Road  
SMYRNA DE. 19977

(List any additional defendants, their employment, and addresses with zip codes, on extra sheets if necessary)

*and any are like the judicial system  
deems responsible and who should  
be held accountable.*

## IV. STATEMENT OF CLAIM

(State as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach no more than three extra sheets of paper if necessary.)

1. Basic problems started 3/5/2005 with meeting  
with Lt Morris & Lt Legates after Lt Lewis had complaint  
to Lt Legates about constitutional issues and threats and bribery  
against 1st Cook given on 3rd Cooks. Was told in meeting  
per Morris which included given that he is in charge no matter what
  2. On 3/19/2005 another meeting about threats and firing  
involves by 1st Cook and Lt Morris said had to follow  
procedures. Had to first give notice of infraction so there  
would be consulting by assigned officer for communications  
report before anyone can be fired. And also asked in
  3. at that time who we wanted first and if Ketcher and  
talked about how to handle it. He supervised as he  
would talk to "his" officers and have them comply  
to our wishes. Since then interviews for promotions  
have been done with given offering questions and promotions  
to inmates for commissary those who comply get the  
questions he would ask
- V. RELIEF see exhibit A

(State briefly exactly what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. Lt Lewis is asking those inmates whether  
action or inaction to be held accountable in their  
personal and official capacity not only for  
procedure violations but also for the double  
and triple jeopardy shown in a 1 instance  
complaint. Lt Lewis wants compensation for  
stress from mental, verbal and emotional abuse  
suffered along with punishment and mistreatment  
Lt Lewis would like to see an expedition filed  
in main kitchen and Department of Corrections & force  
them to follow their own procedures in future



Exhibit A pg #1

St. Louis refused to participate in these practices and told Lt. Morris. 2 weeks before St. Louis was fired Hovon threatened him personally and St. Louis went to Zone one Officer Johnson and after talking to witnesses recommended verbally. Hovon also proceeded to Lt. Morris and had St. Louis called in to his office. Hovon asked to have St. Louis fired and Lt. Morris said this couldn't be done because of no prior problems or disciplinary actions. St. Louis left meeting and Green and Morris talked for about 1 more hour. Green returned telling St. Louis his time was terminated. 2 weeks later he was fired.

On 12/7/2005 St. Louis was written up and terminated a few days later from the prison kitchen. Defendant put in a grievance per Lt. Johnson who was notified by Lt. Morris that she terminated him. Grievance put in on 12/16/2005 and was denied because disciplinary actions are more grievable. On 1/24/06 St. Louis wrote Morris asking for copy of final findings report she had done and sent copy of letter to Warden, Grievance Officer, Chris Klein, Michael Knight and Mr. Morris. St. Louis also wrote Deputy Warden Pierce to explain everything and asked for help for appeal and what to contact. On 2/2/06 Pierce wrote St. Louis and forward concerns to Officer Bernie Williamson to investigate. On 2/15/06 St. Louis was contacted by Lee Bradley Jr (Staff Lt/Lt) and informed him that he met with Boring, Mary (FD specialist #11) about the incident and was surprised that she told him it was already handled and Lt. Morris had terminated defendant St. Louis now has immigration. She

also said, after he told her St Louis was  
 appealing decision, that she did [NOT] wish  
 to do the disciplinary write up on St Louis and  
 thought the whole thing was an misunderstanding  
 [BUT] was ordered by her supervisor, Lt Morris,  
 not once but twice to write it up and she, Lt Morris,  
 would handle everything from there. Lt Morris  
 did hold a fast pending meetings but St Louis never  
 got to file his answer or question any witnesses  
 presented against him as per procedures. Bradley  
 informed defendant that at that time he believed  
 that this incident was totally resolved after St Louis  
 explained everything talked about above, and to  
 ignore it and in 6 months could go back into the  
 kitchen and work and St Louis would have none  
 of any chance of winning an appeal. After much  
 discussion and thought St Louis decided to file  
 an appeal. On 2/16/06 a notice of disciplinary  
 hearing for major and minor was drawn up  
 St Louis questioned this as an appeal not a  
 new disciplinary matter but Bradley said this  
 was the only way to handle an appeal. St Louis  
 listed Greenwell, Morris and Johnson as witnesses  
 he also wanted Lehman, Jones and Klein but  
 because there were only [3] hours for witnesses  
 Bradley informed St Louis to write a letter  
 adding their names as witnesses to hearing officer.  
 which on 2/16/06 St Louis did write up and  
 placed in disciplinary officer box in his building

pg # 3

On 2/23/06 St. Louis was called to report to the disciplinary hearing office for hearing. Upon entering St. Louis was met by hearing officer Ralph Herveren. Seeing St. Louis was nervous sitting up for disciplinary hearing he asked what and how it was going to be handled.

Herveren first told St. Louis no one was there yet and called the main kitchen for all witnesses and individuals to attend. While St. Louis was waiting Herveren went over the rules for a hearing and told St. Louis the only person he could question was complaining officer who wrote up the incident. St. Louis did note that this is against prison procedures and wasn't acceptable. Herveren said he would come back and find St. Louis guilty if that was better.

Other officers accused including Klein, Boring, Morris and Johnson. Defendant asked where I'm from and I'm Greenville, his witnesses, none and never received a response or reason why they could not be there or why no one took a written statement from either one. Testimony against St. Louis was put forth by Boring, Johnson and Morris and Morris testified as to what Greenville would have said even though he wasn't there to testify or be questioned. Herveren decided on his statement of conviction Greenville's testimony. Although I'm nervous and guilty of guilt. St. Louis was only allowed to question Boring again in violation of prison disciplinary procedures,

and hearing ended. The Kitcher officers returned to the Kitcher and Heverin and St. Louis remained on discussed the outcome. Heverin told St. Louis that he felt terrible and he didn't believe St. Louis to be guilty [but] had to rule against him because he could not rule against an officer from the Kitcher and he believed Greenwell should be held accountable for these actions not St. Louis [BUT] Heverin said he would only give St. Louis [5] days CTQ as punishment. St. Louis asked why was he being punish seeing this was an appeal from actions already punished per termination and now would change his classification and send him to segregated housing losing what freedom he did have. Heverin said all he could do was let St. Louis appeal his decision to Anthony Rendine, chief of Prisons and St. Louis did and was denied. St. Louis then written Deputy Warden Peew, Warden Carroll and they've reviewed and has given no action or satisfaction to this date. Actually St. Louis besides being terminated has now received [5] days CTQ and now is in segregated housing as of 4/29/06 and doesn't expect to be reclassified until 7/07 as per Counselor McMahon. End of Complaint.



2. there already is in front of Judge Sue  
Robinson a civil action against the  
Massachusetts officials for retaliation  
and hopes this incident at the Mass  
building can be taken care of so that
3. in the future anyone who wants to appeal a  
firing and Constitutional violation will not  
be punished further for trying to regain  
due process.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 13 day of October, 2006.

James L. Louis

(Signature of Plaintiff 1)

(Signature of Plaintiff 2)

(Signature of Plaintiff 3)

In the United States District Court  
For the District of Delaware

James A. Louis  
Plaintiff

Ralph Heuser  
David Pierce  
Officer Berni Williams et al.

Motion For leave to File Pertinent  
evidence not available until recently  
as provided by ACLU under freedom  
of information act.

Plaintiff James A. Louis pursuant to  
Civil Rights Act 42 USC 1983 filed  
on 10/14/2006 regarding procedural  
due process violations would like  
to add exhibits and explanations  
below.

1. exhibit A

- A. note date of incident
- B. note disciplinary type
- C. violations recorded

2. exhibit B

- A. date on form of grievance
- B. date of return on back

3. exhibit C

A. return letter from deputy Warden addressing appeal with date and assigned officer.

4. exhibit D and E

A. date officer first looked into appeal (top right)

B. nature of hearing.

5. exhibit F

A. last appeal from Chief of Bureau denying defendant due process.

The argument brought forth for defendant is one of violation of procedures by the State of Delaware Correctional Center and officers involved in this complaint per their own procedural manual (exhibit G.)

In manual it list Class I and Class II offenses and what each are and how to handle these hearings. On page 5 it list Class I hearings and procedures to page 8 where Class II offenses begin.

If you check violations on defendant's sheet all his charges are Class II despite an individual identifying them as Class I.

Also on page 8 it list sanctions and continues on page 9 with Class II sanctions

It also says that with a class II violation all penalties are given out by supervising authority unless you already have 3 write ups, then the 4th is a class I. Defendant has [no] other write ups not even a 24 hours loss of all privileges. As read in Class II hearings

Appeals are addressed next for class I and class II which was not followed per departments own procedures.

Defendant asked numerous times for a copy of rules from law library and building 40 and was denied access saying they are prohibited from giving out to inmates.

It also addresses how a class I or class II offense has to be forwarded to the watch commander for review before punishment is handed out. This was never done. Defendants report was only addressed because defendant pushed the issue as a false report for retaliation in the kitchen. Procedures also say that once a class II hearing is done which I was terminated with no other punishment. Upon appeal no further punishment can be handed out. Defendant received 5 days Confinement to quarters



and was classified to a higher security housing unit with less freedom and access to law library and other activities like church and bible study which defendant has been denied. (see exhibit H)

Defendant first is asking for an injunction for defendant to return to his minimum security classification, expunge of incident from records, return to building where defendant was housed.

Defendant also asks this court to order the Delaware Correctional Prison System to post in a relevant and high traffic location the procedures and listings of all disciplinary actions so this unfortunate incident doesn't repeat itself. Defendant also ask like previously all personally in their official and individual capacity those who in activity and non activity be held accountable monetary and sanctions permitted and any other relief deems appropriate by this court.

James A. Louca

SMYRNA DE, 19977

Phone No. 302-653-9261

# DISCIPLINARY REPORT

Disciplinary Type: Class1

Housing Unit: Bldg E

IR#: 1028348

SBI#	Inmate Name	Inst. Name	Location Of Incident	Date	Time
00446518	Stlouis, James J	DCC	Bldg.14 Food Prep. Area	12/07/2005	12:00

Violations: 2.01/200.105 Abuse of Privileges. 2.10/200.213 Lying

Witnesses: 1. N/A

2. N/A

3. N/A

## Description of Alleged Violation(s)

On The Above Date And Approx. Time I/M James St. Louis Was Terminated For Lying And Abuse Of Privileges/M James St. Lou Told Me, Fssii Boring That Chicken Parmesan And Bread Pudding W/ Raisins Was Approved By Director Klein. I/M Lied To Me Fs. Boring About The Approval Of The Products.

Reporting Officer: Boring, Mary M (FS Specialist I & II)

## Immediate Action Taken

Immediate action taken by: Boring, Mary M -FS Specialist I & II

404 Written

## Offender Disposition Details

Disposition: N/A

Date: N/A

Time: N/A

Cell secured? No

Reason: N/A

Disposition Of Evidence: N/A

## Approval Information

Approved: ☐ Disapproved: ☐ Approved By: ( )

Comments: N/A

## Shift Supervisor Details

Date Received:

Time:

Received From: ( )

## Shift Supervisor Determination:

- ☐ Upon reviewing this Disciplinary Report, I conclude that the offense may be properly responded to by an immediate revocation of the following privileges(see reverse side) for \_\_\_\_\_ hours not to exceed 24 hours)
- ☐ Upon reviewing this Disciplinary Report, I conclude that the offense would be properly responded to by Disciplinary Hearing

I have received a copy of this notice on DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ and have been informed of my rights to have a hearing and to present evidence on my own behalf. I understand, if found guilty, I will be subject to imposition of sanctions outlined in the Rules of conduct.

Preliminary Hearing  
Officer: \_\_\_\_\_

Offender: \_\_\_\_\_

Stlouis, James J

*Exhibit A*

RECEIVED  
DEC 13 2005

1. *Chlorophyll a* and *Chlorophyll b* contents were determined by spectrophotometry using the method of Lichtenthaler and Whistler (1987).

10:30 AM talked to Harney to see grievance officer

12/9/05 9:50 AM

Q. I left Building E to go to kitchen to work upon entering kitchen I handed my pass to officer Wagner and proceeded into kitchen to coat room and then to set up for today's work. After getting the count and needs for diet cooks I noticed a sign up on the gone one office for 2nd cooks. I saw I/M Cole and asked him about it. He explained that I was terminated and he was told to run the floor. I proceeded to Lt. Lehman's office and upon entering asked him if I was terminated. He said he just received an E mail outlining suspension pending termination of our come of healing. And told me spec. Boring wrote up this order. I asked him what for and could I get a copy of it. He proceeded to enter his computer and gave me a copy of said order. We talked for awhile and he said his advice to me is chill for awhile and give it, and was sure the truth would come out sooner or later. I left and went back to my building where I noticed the write up was dated 2 days ago at noon.

facts:

#1. Around Thanksgiving time we (cooks) were preparing a Thanksgiving day meal and Ms. Boring asked if we were going to have bread pudding I responded and told her no we were having sweet potato pie instead. She said she always



add raisins to her bread pudding and wouldn't it be nice if we could do it here. I told her probably but I didn't know when we were going to have it. She asked me to let her know so she could bring in some raisins for workers chow and I said I would. In the mean time Mr. Greenwell (a second cook) told me Mr. Govon (1st cook) and himself met with Mr. Cline (head of kitchen) and was told if we had enough bread after making stuffing for Thanksgiving he could do bread pudding sometime.

Now two weeks ago we had chicken patties and had 200 left over from lunch which I put in the freezer. And last Monday we had spaghetti and meat sauce left over from dinner that was put in the cooler. I said to Mr. Govon it would be nice if this week we had chicken patties w/sauce and bread pudding and he agreed says ask zone one if we can do it. Thursday seeing it is a terrible meal. I proceeded to zone 1 and asked officer Johnson if he was in charge Thursday and he said yes.

And I asked to run something by him I told him of Greenwell's conversation about Kline OKing bread pudding

and I told him about the chicken patty and sauce and ask if it would be alright with him if we had them Thursday and he said it was OK. Upon leaving zone one I saw Mrs. Bouring and told her we were having Bread pudding and a cake and sauce Thursday and she said wanted to bring in raisins. I told to talk to Mr. Greenwell because had Kline's permission and that should clear it through him. She immediately went to Greenwell and discussed the issue upon completion told me she was going to check with him.

The next thing I know I have been off but worked 1/2 a day (which the 7<sup>th</sup> worked to 1pm) and no one anything to me. Thursday I went into the kitchen at 1:30pm to meet Lt Morris and Lt. Lehman. They had questions about the supposedly cancelled meal. I did not go into work Thursday. I was told by 3<sup>rd</sup> Cooks Mendenhall at 3pts that the meal was cancelled and was asked if it was OK. No one mentioned the meal was up or suspension until the

12/8

and I told him about the chicken patty and sauce and ask if it would be alright with him if we had them Thursday and he said it was O.K.

Upon leaving zone one I saw Mrs. Bouring and told her we were having Bread pudding and chicken patty and sauce Thursday and she said she wanted to bring in raisins. I told her to talk to Mr. Greenwell because he had Kline's permission and that she should clear it through him. She immediately went to Greenwell and discussed the issue upon completion told me she was going to check Mr. Kline.

The next thing I know I have Wednesday off but worked 1/2 a day (which was the 7<sup>th</sup> worked to 1pm) and no one said anything to me. Thursday I was called into the kitchen at 1:30 pm to see Lt Morris and Lt. Lehman to answer questions about the supposedly meal.

I did not go into work Thursday because I was told by 3<sup>rd</sup> Cooks Wednesday night at 5 p.m. that the meal was canceled and was asked if I was O.K. No one mentioned the meeting or suspension until this AM.

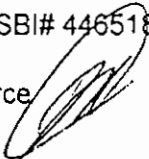
12/8





STATE OF DELAWARE  
DEPARTMENT OF CORRECTION  
OFFICE OF THE DEPUTY WARDEN  
DELAWARE CORRECTIONAL CENTER  
1181 Paddock Road  
SMYRNA, DELAWARE 19977  
Telephone: (302) 653-9261  
Fax: (302) 659-6668

MEMORANDUM

TO: IM James St. Louis SBI# 446518 E D33B  
FROM: Deputy Warden Pierce   
DATE: February 7, 2006  
RE: Disciplinary

---

I received your letter dated February 1 2006, regarding a disciplinary you received and have forwarded your concerns to Hearing Officer Williams for his action.

DP/dc  
Attachment  
cc: S/Lt Williams  
File

*exhibit C*



Dear Deputy Warden Pierce

FEB 02 2006

DEPUTY WARDEN I

Sir I am writing you because I can not get an answer to my problem. On Dec. 7 2005 Officer Boring, from the kitchen, wrote a disciplinary report # 1022173 which said I lied to her for my own personal gains. I worked pass the 1200 hour this report was done and upon asking 2 times if I was fired was told no by Lt. Lehman from the kitchen. On December 9 2005 I was told about this disciplinary report, 2 days later, and was given a copy of it but was also told by Lt. Lehman I was suspended pending a disciplinary hearing and that I should file a grievance on this action. Upon my return to my building I asked the building officer in charge to call to C/O uncharge of prison so I could put forth a complaint. I was told he would be over as soon as he was free, that was about 9:40 AM December 9 2005, and I still haven't seen him. I asked two more times and was told to be patient. I decided to write my grievance and presented it to the building C/O who placed it in the grievance box on 12/10/05.

As of January 24, 2006 I had heard nothing about my grievance or my

disciplinary hearing and wrote a letter to the Warden, the Grievance Officer, Chris Klein, Michael Knight and Lt S. Morris explaining to them that I have not received my 8th Am rights to due process by [not] having a disciplinary hearing and also requested information which I tried to get from Law Library and the building 40 about kitchen disciplinary hearing, which I was told does not exist. I told them about the witnesses I would like to call for my hearing.

Now we come to today 2/1/06 I received back from the Grievance Officer my paper work telling me I can not receive a disciplinary action. The first time I did a grievance was about Counselor Mc Mann and the physical threats and was told I could not receive that. What exactly can be grieved? I do not understand. I do want a disciplinary hearing and have a right to one and will go to civil federal court for one. I am in the process of obtaining a lawyer you are all familiar with civil law suits I don't want any problems only what the law says I can get and that to be treated fairly and what is [not] happening.

I'm not going to threaten anyone by I am telling you this I've made copies of everything and sent them out to my son and told him to go to the papers with both Guenineas. If I do not tell him progress is being made.

I'm so so sorry for having to involve you but as an officer told me who gave me your name. If we had competent C/O here we knew what was right and how to do it. I wouldn't have to address this to you.

Sir I'm not an angel but I also do not lie and I will not admit something I did [not] do or have something on my record I did not do without fighting with everything I have at hand.

I was told if I push this issue there could be repercussions. The only thing I say to that is God protects those who trust in Him and nothing happens without His sayso.

I hope we can address this issue and come to a fast solution.

Thanks for your  
time  
Jim St. Louis  
446518  
nit D33

1022173

Smymna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

**DISCIPLINARY REPORT**Disciplinary Type: Class1Housing Unit: Bldg EIR#: 1028348

SBI#	Inmate Name	Inst. Name	Location Of Incident	Date	Time
00446518	StLouis, James J	DCC	Bldg.14 Food Prep. Area	12/07/2005	12:00

Violations: 2.01/200.105 Abuse of Privileges, 2.10/200.213 LyingWitnesses: 1. N/A2. N/A3. N/A**Description of Alleged Violation(s)**

On The Above Date And Approx. Time I/M James St. Louis Was Terminated For Lying And Abuse Of Privileges/M. James St. Louis Told Me, Fssii Boring That Chicken Parmesan And Bread Pudding W/ Raisins Was Approved By Director Klein. I/M Lied To Me Fssii Boring About The Approval Of The Products.

Reporting Officer: Boring, Mary M (FS Specialist I & II)**Immediate Action Taken**Immediate action taken by: Boring, Mary M -FS Specialist I & II

404 Written

**Offender Disposition Details**Disposition: N/ADate: N/ATime: N/ACell secured? NoReason: N/ADisposition Of Evidence: N/A**Approval Information**Approved: ☒ Disapproved: ☐ Approved By: Lee, Bradley Jr. (Staff Lt./Lt)Comments: N/A**Shift Supervisor Details**Date Received: 02/15/2006Time: 13:57Received From: Boring, Mary M**Shift Supervisor Determination:**

- [ ] Upon reviewing this Disciplinary Report, I conclude that the offense may be properly responded to by an immediate revocation of the following privileges(see reverse side) for \_\_\_\_\_ hours not to exceed 24 hours)
- [X] Upon reviewing this Disciplinary Report, I conclude that the offense would be properly responded to by Disciplinary Hearing

Rea  
Dis  
V

Lee, Bradley Jr. (Staff Lt./Lt)

I have received a copy of this notice on DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ and have been informed of my rights to have a hearing and to present evidence on my own behalf. I understand, if found guilty, I will be subject to imposition of sanctions outlined in the Rules of conduct.

Preliminary Hearing  
Officer: \_\_\_\_\_

Lee, Bradley Jr.

Offender: \_\_\_\_\_

StLouis, James J

*exhibit D*



DR #  
1022173Date: 2/16/06DCC Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977NOTICE OF DISCIPLINARY HEARING - FOR MINOR/MAJOR OFFENSETo: Inmate: St Louis, James J. SBI#: 00440518 Housing Unit: E

1. You will be scheduled to appear before the Hearing Office to answer charges pending against you. (Staff are to explain the charges as listed on the 122)
2. At that time, a hearing will be held to determine whether you violated Institutional Rule(s) as alleged in the attached Disciplinary Report.  
How do you plead? ☐ Guilty ☒ Not Guilty
3. A "Minor Offense" is a rule violation in which the extent of the sanction to be imposed shall be restricted to:
  - a. Written Reprimand.
  - b. Loss of one or more privileges for a period of time of more than 24 hours but less than 15 days.
4. A "Major Offense" is a rule violation in which the extent of the sanction to be imposed shall be restricted to:
  - a. Loss of one or more privileges for a period of more than 15 days but less than 60 days.
  - b. Confinement to assigned quarters for a period of time not to exceed 30 days.
  - c. Isolation confinement for a period of time not to exceed 15 days.
  - d. Loss of good time for a period of time not to exceed 30 days. (Forfeiture of accumulated good time shall be subject to the approval of the Commissioner or his designee.)
5. You have the rights in the disciplinary process as stated on the lower and back of this page. These have been fully explained to you at the time of this notification.

6. Counsel requested? ☐ Yes ☒ No Name of Counsel: \_\_\_\_\_7. Confront accuser? ☒ Yes ☐ No8. Witness requested? ☒ Yes ☐ No Name of Witness: FM Greenwell, Bryon  
FSS Morris, Cheryl  
FSS Johnson, A.I certify that on 2/16/06 at \_\_\_\_\_  
(Date) (Time)I served upon the above inmate this notice of  
Disciplinary Hearing for Minor/Major Offense  
and the Disciplinary Report is attached hereto.[Signature]  
(Employee's Signature & Title)I have received copies of 122 & 127 and  
understand my rights as Form #127 has  
been read to me.[Signature]  
(Inmate's Signature)

2/16/06 letter to C/O Disciplinary Office  
fr director Klein - I/m Govan  
C/O Lt Lehman / also no response  
fr foot sending from Lt. Morris

## DISCIPLINARY HEARING DECISION

Inmate : StLouis, James JSBI#: 00446518Type: Class 1Institution: DCC Delaware Correctional CenterHearing Date: 02/23/2006Time: 12:37Inmate Present: Yes Reason (If No): N/AViolation: 2.01/200.105 Abuse of Privileges, 2.10/200.213 LyingInmate PLEA: Not GuiltyInmate Statement: Because I didn't do what she said I did.Witness Name: Greenwell, Bryon *was not present*Testimony : Lt. Morris state's Mr greenwell said nothing about raise for bread pudding  
Sgt. Johnson, Andre state's He know nothing of this bread pudding W/RaisinsWitness Name: Morris, CherylTestimony : N/AWitness Name: Johnson, AndreTestimony : N/ADecision : GuiltyRational : Accuser state's I/M said he got the approved from Mr. Klein. After listen to Lt. Morris an Sgt. Johnson I find I/M Guilty  
of all chargesSanctions: N/A

## HEARING OFFICER'S SIGNATURE

Heverin, Ralph

I understand that I may appeal the decision of a Class II Hearing to the Class I Hearing Officer. I may appeal the decision of a Class I Hearing to the facility administrator. I also understand that I have 72 hours to submit my notice of appeal in writing to the Class I Hearing Officer if I am appealing a Class II Hearing decision or the Warden if I am appealing a Class I Hearing decision.

I ☒ DO ☐ DO NOT INTEND TO APPEAL

INMATE'S SIGNATURE

## ORDER TO IMPLEMENT SANCTIONS

☐ Inmate does not wish to appeal ☒ Appeal has been denied by Commissioner or Designate

☐ Sanctions have been modified ☐ Time Limit (72 Hours since hearing) for appeal has expired

It is here by ordered to implement the sanctions:

Sanctions	Start Date	Days	End Date
1. Confinement to Quarter	04/10/2006	5	04/14/2006

DCC Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

### DISCIPLINARY HEARING DECISION

☐ Class I (Major) ☐ Class II (Minor) ☐ Summary (24 Hour LOAP)

Inmate: Thomas, Thomas SBI#: 00 446518  
Institution: Delaware Correctional Center Hearing Date: 7-23-06 Time: \_\_\_\_\_

Inmate Present: ☒ Yes ☐ No

Reason (If No): \_\_\_\_\_

Violation: 201.115 AP 7-13-06  
Inmate Plea: Not Guilty  
Inmate Statement: Because I didn't do what she said I did.

Witness Name: Thomas, Thomas  
Testimony: Raised for prison picking.

Witness Name: Det. Tolson  
Testimony: He knows nothing of this.

Witness Name: \_\_\_\_\_  
Testimony: \_\_\_\_\_

Decision: ☒ Guilty ☐ Not Guilty ☐ Further Investigation

Rational: Because the inmate said he got the appeal from the prison, after that to Thomas + Det. Tolson I find the guilt of all charges.

Sanctions: 5 days ATR  
Hearing Officer's Signature: [Signature]

I understand that I may appeal the decision of the Hearing Officer (or Shift Supervisor in the case of a Summary Sanction) to the Commissioner of Correction or his designee. I must complete a Disciplinary Appeal Form within 72 hours immediately following the hearing and mail it to the DCC Hearing Office.

☒ I do intend to appeal.  
☐ I do not intend to appeal.

Inmate's Signature: \_\_\_\_\_

### ORDER TO IMPLEMENT SANCTIONS


☐ Inmate does not wish to appeal ☐ Appeal has been denied by Commissioner or Designee  
☐ Sanctions have been modified ☐ Time Limit (72 hours since hearing) for appeal has expired

Modifications: \_\_\_\_\_  
It is hereby ordered to implement the sanctions or modified sanctions on Date: \_\_\_\_\_ Time: \_\_\_\_\_

exhibit F

Inmate : Stlouis, James JSBI#: 00446518Type: Class 1Institution: DCC Delaware Correctional CenterHearing Date: 02/23/2006Time: 12:37**MEMORANDUM**To : Stlouis, James JFrom : Chief, Bureau of PrisonsRE : APPEAL DECISION**1. Confinement to Quarter**Your appeal ☐ Accepted ☒ DeniedThe decision of hearing ☒ Affirmed ☐ Reversed ☐ Remanded for further proceedingsThe sanction imposed by hearing officer will ☒ Remain as imposed by the Hearing Officer ☐ ReducedThe basis of this decision is as follows :

The reports support the guilt. your appeal contains no evidence to support a change. {SLD}

This report has been reviewed by Rendina, Anthony J. 

Date Reviewed 03/02/2006

*Letter sent  
disappointment  
journal  
attorney**exhibit F*



James St.Louis, 446518  
22  
AU5

I will be preparing your classification this month. Building 21 is maximum security.  
Let's talk about that more at classification. I will leave my recommendation blank until  
we talk.

---

Per your request, here is your breakdown for classification.

- 6 - Severity of offense
- 0 - Open charges
- 0 - Escapes
- 0 - Age
- 0 - Prior convictions 10 years prior to the start date of this sentence
- 2 - Points for number of write-ups in the last 18 months
- 3 - Points for most severe write-up in the last 5 years
- 2 - Points for programming/not programming, working or being terminated from work
- 3 - Points for time remaining on your sentence.

The total points are 16 points with a review of 06/07. However, I have approval to  
review your classification this month. Counselor McMahon and Lt. Porter were on the  
MDT of that classification.

Thank you, and see you soon.

Cindy Atallian  
Counselor - 22

---

AMERICAN CIVIL LIBERTIES  
UNION OF DELAWARE,

Plaintiff,

v.

STANLEY W. TAYLOR, JR.,  
in his official capacity as the  
COMMISSIONER OF THE  
DELAWARE DEPARTMENT  
OF CORRECTION,

Defendant.

Civil Action No.

FILED  
PROTHONOTARY  
2006 AUG - 8 AM 11:00

## COMPLAINT UNDER DELAWARE FREEDOM OF INFORMATION ACT

Plaintiff American Civil Liberties Union of Delaware, by its undersigned  
attorneys, for its Complaint against Defendant, alleges:

### NATURE OF ACTION

1. This action seeks to compel compliance with the Delaware Freedom of Information Act, 29 Del. C. §§ 10001 *et. seq.* Pursuant to the Act, Plaintiff requested that Defendant disclose certain public records pertaining to the provision of health care in Delaware prisons. Defendant has refused to provide the requested records. Defendant claims that the requested records are not public records subject to disclosure under the Act because they are "trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature." See 29 Del. C. § 10002(g)(2).

2. This Court has jurisdiction over this action pursuant to 10 Del. C. § 541 and

venue is proper under 29 Del. C. § 10005(b).

### PARTIES

3. Plaintiff American Civil Liberties Union (ACLU) of Delaware is a non-profit public interest organization with its principal place of business in Wilmington, Delaware. Since its founding in 1961, the ACLU of Delaware has worked before the legislature and in the courts to advance the civil liberties of all Delawareans and to educate the public on a wide range of civil liberties issues. In particular, the ACLU of Delaware has engaged in advocacy and litigation on behalf of Delaware's inmate population.

4. Defendant Stanley W. Taylor, Jr. is the Commissioner of the Delaware Department of Correction. Defendant Taylor is sued in his official capacity.

### FACTS

5. The Delaware Freedom of Information Act (FOIA) declares: "It is vital in a democratic society that public business be performed in an open and public manner so that our citizens shall have the opportunity to observe the performance of public officials and to monitor the decisions that are made by such officials in formulating and executing public policy; and further, it is vital that citizens have easy access to public records in order that the society remain free and democratic." 29 Del. C. § 10001.

~~6. The Delaware FOIA provides that "[a]ll public records shall be open to inspection and copying by any citizen of the State . . . ." 29 Del. C. § 10003(a).~~

provide a copy of five categories of documents.

8. By letter dated June 27, 2006, a copy of which is attached as **Exhibit 2**, Defendant responded to the ACLU's FOIA request. In that letter, Defendant informed the ACLU that he had authorized disclosure of the first three categories of documents requested, but Defendant refused to produce any documents from the fourth and fifth categories of documents requested by the ACLU.
9. The fourth category of documents sought by the ACLU was treatment protocols for the following illnesses or conditions: HIV/AIDS, hepatitis, diabetes, heart disease, cancer, sexually transmitted diseases, pregnancy and gynecological care, high blood pressure, high cholesterol, dental care, and chronic pain. Defendant has not produced any such treatment protocols to the ACLU.
10. The fifth category of documents sought by the ACLU was operating procedures with respect to wellness visits, including routine gynecological care. Defendant has not produced any such operating procedures to the ACLU.
11. In the June 27, 2006 letter, Defendant also asserted that the requested treatment protocols and operating procedures "do not fit the definition of 'public record'" as used in the Delaware FOIA "because they are 'trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature.'" *See* 29 Del. C. § 10002(g)(2). In support of this assertion, Defendant stated only that "[t]he treatment protocols you have requested consist



12. The only basis asserted by Defendant to justify its refusal to disclose the requested treatment protocols and operating procedures is Defendant's claim that the requested documents are exempt from disclosure under 29 Del. C. § 10002(g)(2).
13. Because the Delaware Department of Correction is a state agency, there is no administrative process by which the ACLU can appeal Defendant's decision. *See* 29 Del. C. § 10005(f); 29 Del. C. § 2540(2). Plaintiff ACLU of Delaware has no mechanism to enforce the Delaware FOIA other than by bringing suit.
14. All conditions precedent have been performed or have occurred.
15. Plaintiff ACLU of Delaware has a right to the records it seeks, and there is no legal basis for Defendant's refusal to provide them to Plaintiff.

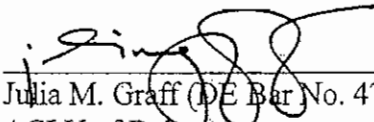
#### **CLAIMS FOR RELIEF**

Plaintiff requests that this Court:

1. Declare that Defendant's failure to disclose the requested treatment protocols and operating procedures violates 29 Del. C. § 10003 and is unlawful;
2. Order Defendant to make the requested records available to Plaintiff;
3. Award Plaintiff its attorneys' fees and costs pursuant to 29 Del. C. § 10005(d); and
4. Grant all other appropriate relief.

August 8, 2006

Respectfully submitted,

  
\_\_\_\_\_  
Julia M. Graff (DE Bar No. 4708)  
ACLU of Delaware  
100 W. 10th Street, Suite 309  
Wilmington, DE 19801  
Tel. (302) 654-5326, ext. 103  
Fax (302) 654-3689

Michael T. Kirkpatrick  
*Applicant for admission pro hac vice*  
Public Citizen Litigation Group  
1600 20th Street, NW  
Washington, DC 20009  
Tel. (202) 588-1000  
Fax (202) 588-7795

Attorneys for Plaintiff

# EXHIBIT 1



Wilmington, Delaware 19801  
 (302) 654-5326 Fax (302) 654-3689  
 acludelaware@acludelaware.org www.aclu-de.org

Sidney Balick  
*President ACLU Delaware*  
 Nancy D. Dean  
*Vice President*  
 Jeanne M. Hanson  
*Second Vice President*  
 Max S. Bell, Jr.  
*Secretary*  
 Grace E. Messner  
*Treasurer*  
 Gilbert J. Sloan  
*President ACLF Delaware*  
 Joan D. Kandler  
*Treasurer ACLF*

June 12, 2006

Mr. Stanley W. Taylor, Jr.  
 Commissioner  
 Delaware Department of Correction  
 245 McKee Road  
 Dover, DE 19904

**Re: FOIA REQUEST**

Dear Commissioner Taylor:

This is a request under the Freedom of Information Act, 29 Del Code § 10001 et seq

I respectfully request a copy of the following:

1. The disciplinary rules whose violation would result in action against an inmate;
2. and the policies and procedures controlling disciplinary infractions, including Department of Correction policies and procedures and the Bureau of Prisons policies and procedures;
2. The prison grievance procedures for medical grievances as well as non-medical grievances;
3. Treatment protocols for the following illnesses or conditions:
  - a. HIV/AIDS;
  - b. Hepatitis;
  - c. Diabetes;
  - d. Heart Disease;
  - e. Cancer;
  - f. Sexually Transmitted Diseases;
  - g. Pregnancy and Gynecological Care;
  - h. High Blood Pressure;
  - i. High Cholesterol;
  - j. Dental Care;
  - k. Chronic pain; and
4. Operating procedures with respect to wellness visits, including routine gynecological care

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Drewry Nash Fennell, Esq.  
*Executive Director*

*Protecting the Civil Liberties of Delawareans Since 1961*



To permit me to reach an intelligent and informed decision about whether to file an administrative appeal of any denied material, please describe any withheld records (or portions thereof) and explain the basis for your exemption claims.

I also request a waiver of all fees for this request. Disclosure of the requested information is in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the government and is not primarily in my commercial interest.

To help to determine my status for the purpose of assessing fees, please note that I am requesting such information on behalf of the American Civil Liberties Union of Delaware, a public interest organization that seeks the information for public use, and not for private or commercial use.

If you have any questions regarding the scope of the request or any other matters, please call me at (302) 654-5326, ext. 102. I look forward to receiving your response by June 27, 2006.<sup>1</sup>

Sincerely,



Julia M. Graff  
Staff Attorney  
ACLU of Delaware

<sup>1</sup> See Letter from Attorney General (June 3, 2004): "This Office has determined that 'reasonable access' means that a public body should, within 10 days of receipt of a definitive request, issue a written determination to the requestor stating which of the requested records will, and will not be released and the reasons for any denial of a request. Att'y Gen. Op. 91-1003 (Feb. 1, 1991)," available at [http://www.state.de.us/attgen/main\\_page/opinions/2003/03-ib13.htm](http://www.state.de.us/attgen/main_page/opinions/2003/03-ib13.htm). See also Letter from Attorney General (June 2, 2003): "Statutes in a number of other states exclude Saturdays, Sundays and holidays in calculating the required response time for public records. See e.g., D.C. Code S 1-522(c); La. Rev. Stat. S 41:31; S.C. Code Ann. S 30-4-40. We think it appropriate to exclude weekends and holidays in Delaware as well. In addition, just as the courts do not count the day of filing, the time-line for a FOIA response to a public records request begins the next business day after the public body received the request," available at [http://www.state.de.us/attgen/main\\_page/opinions/2003/03-ib13.htm](http://www.state.de.us/attgen/main_page/opinions/2003/03-ib13.htm).

# EXHIBIT 2

STATE OF DELAWARE  
DEPARTMENT OF CORRECTION  
245 McKee Road  
Dover, Delaware 19904

Stan Taylor  
Commissioner

(302) 739-5601  
Fax: (302) 739-8221  
E-Mail: [staylor@state.de.us](mailto:staylor@state.de.us)

June 27, 2006

***VIA Hand Delivery and U.S. Mail***

Julia M. Graff, Esquire  
Staff Attorney  
ACLU of Delaware  
100 W. 10<sup>th</sup> Street, Suite 309  
Wilmington, DE 19801

Re: The ACLU's FOIA request to DOC dated June 12, 2006

Dear Ms. Graff:

Please accept this letter as a response to your written FOIA request dated June 12, 2006. Your recent request for information was made under the State of Delaware's Freedom of Information Act (FOIA), 29 Del. C. § 10001, *et seq.* Therein, you requested the following information:

1. The disciplinary rules whose violation would result in action against an inmate;<sup>1</sup>
2. The policies and procedures controlling disciplinary infractions<sup>2</sup>, including Department of

<sup>1</sup> Presumably, the phrase "action against an inmate" refers to disciplinary sanctions short of criminal prosecution for disciplinary infractions committed by inmates. Please advise if you intended a different meaning.

<sup>2</sup> Presumably, the term "policies and procedures controlling disciplinary infractions" refers to the notice, hearing, and appeal provisions associated with the inmate disciplinary process. Please advise if you intended a different meaning.

June 27, 2008

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**Correction policies and procedures and the Bureau of  
Prisons policies and procedures;**

3. The prison grievance procedures for medical grievances as well as non medical grievances;
4. Treatment Protocols for the following illnesses or conditions:
  - a. HIV/AIDS
  - b. Hepatitis
  - c. Diabetes
  - d. Heart Disease
  - e. Cancer
  - f. Sexually Transmitted Diseases
  - g. Pregnancy and Gynecological Care
  - h. High Blood Pressure
  - i. High Cholesterol
  - j. Dental Care
  - k. Chronic Pain
5. Operating Procedures with respect to wellness visits, including routine gynecological care.

As you may be aware, the FOIA statute contains a number of exceptions to the definition of "public record". See 29 Del. C. § 10002(g). Legally speaking, the records requested in paragraphs 1 – 3 are exempted from the definition of public records because they are subject to statutory privilege. See 11 Del. C. § 4322(d)<sup>3</sup> in conjunction with 29 Del. C. § 10002(g)(6). Nonetheless, pursuant to my authority under 11 Del. C. § 4322(d), I authorize the disclosure of these policies in response to your request. They are enclosed herein.

With respect to the remainder of your requests, these records do not fit the definition of "public record" because they are "trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature." See 29 Del. C. § 10002(g)(2). The treatment protocols you have requested consist entirely of

<sup>3</sup> "The Department of Correction Policies and Procedures, including any Policy, Procedure, Post Order, Facility Operational Procedure or Administrative Regulation adopted by a Bureau, facility or department of the Department of Correction shall be confidential, and not subject to disclosure except upon the written authority of the Commissioner."



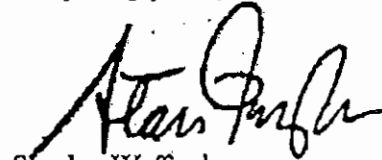
June 27, 2006

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Proprietary information held by the Department's contracted medical provider Correctional Medical Services, Inc. ("CMS").

Thank you for your interest in these issues. The Department looks forward to engendering a continued working relationship with the ACLU of Delaware.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stan Taylor", written over a horizontal line.

Stanley W. Taylor  
Commissioner of Correction

cc: Dr. Robert M. Hooper

Enclosures

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

NORTH EMERSON-WEST,

Plaintiff,

v.

WALTER W. REDMAN, et al.,

Defendants.

C.A. No. 78-14

CONSENT ORDER

The parties, through their respective legal counsel, hereby stipulate and agree, subject to the approval of the Court, as follows:

1. Defendants shall implement the disciplinary procedures set forth in Exhibit "A" at Delaware Correctional Center ("DCC") commencing immediately.
2. By January 1, 1983, defendants shall commence training sessions explaining the disciplinary procedures to all correctional officials at DCC of the rank captain and below. Said training sessions shall be conducted no less frequently than twice each year. After attendance at four such sessions, a correctional official may be excused from further attendance.
3. Persons designated as hearing officers shall be provided with training by a Deputy Attorney General before presiding over hearings. At that time, the hearing officer shall be provided with an instructional pamphlet explaining his/her responsibilities.
4. Plaintiffs and defendants shall create an instructional pamphlet for correctional officers explaining the disciplinary procedures provided in Exhibit "A". The Department of Correction shall provide every present employee, and new employees as they are hired, with a copy of said pamphlet.
5. Upon receipt of a Disciplinary Report, the Hearing Officer will examine the report to determine if it is properly completed. If it is not properly completed, the Hearing Officer will direct the Report to the Unit Manager for the building where the complaining officer works. The Unit Manager will direct the complaining officer to correct the deficiencies in the Report and to return it to the Hearing Officer within seventy-two (72) working hours of the time when the Hearing Officer provided it to the Unit Manager.

If the complaining Officer does not submit the properly completed report within this time, the charges shall be dropped.

6. The Hearing officer shall note on each Disciplinary Report the times when it was delivered to the Building Superintendent and when it was returned to the Hearing Officer.

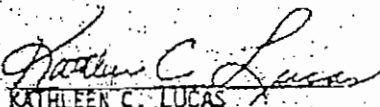
7. After the Disciplinary Hearing, if there is no appeal, the record of the hearing, together with relevant supporting documents, shall be forwarded to the Security Superintendent. He shall review them to determine whether the procedures in Exhibit "A" were properly followed.

8. If the procedures were not properly followed, the documents will be sent back to the Hearing Officer with appropriate instructions to correct the deficiencies and return the documents to the Security Superintendent.

9. Within thirty (30) days after the final review by the Security Superintendent, photocopies of the Record and supporting documents (defined as all documents relating to the incident which was the subject of the charge) shall be delivered to legal counsel for the plaintiffs.

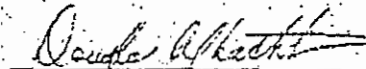
10. If there is an appeal from the order of a Hearing Officer, within (30) days after action on the appeal, photocopies of the record and supporting documents shall be delivered to legal counsel for the plaintiffs.

11. The provisions in paragraphs 8 and 9 shall remain in effect for one year from the execution of this Order by the Magistrate or the Court, unless plaintiff's counsel requests an extension of time.



KATHLEEN C. LUCAS  
Department of Correction  
820 North French Street  
Wilmington, DE 19801

Attorney for Defendants



DOUGLAS A. SHACHTMAN  
1823 Lancaster Avenue  
Wilmington, DE 19805

Attorney for Plaintiff

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 1982.

UNITED STATES DISTRICT JUDGE

October 11, 2006

James St.Louis, 446518  
22  
AU5

I will be preparing your classification this month. Building 21 is maximum security. Let's talk about that more at classification. I will leave my recommendation blank until we talk.

---

Per your request, here is your breakdown for classification.

- 6 – Severity of offense
- 0 – Open charges
- 0 – Escapes
- 0 – Age
- 0 – Prior convictions 10 years prior to the start date of this sentence
- 2 – Points for number of write-ups in the last 18 months
- 3 – Points for most severe write-up in the last 5 years
- 2 – Points for programming/not programming, working or being terminated from work
- 3 – Points for time remaining on your sentence.

The total points are 16 points with a review of 06/07. However, I have approval to review your classification this month. Counselor McMahon and Lt. Porter were on the MDT of that classification.  
Thank you, and see you soon.

Cindy Atallian  
Counselor – 22

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POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION	POLICY NUMBER 4.4	PAGE NUMBER 1 OF 1		
	RELATED ACA STANDARDS: 36			
CHAPTER: 4-DECISION MAKING RELATING TO OFFENDERS	SUBJECT: OFFENDER/DETENTIONER GRIEVANCE PROCESS			
APPROVED BY COMMISSIONER: <i>Robert J. Watson</i>				
EFFECTIVE DATE: July 1, 1992				

I. AUTHORITY: 11 Del. C. 6535, 29 Del. C. 8903

II. PURPOSE: To establish offender/detentioner grievance process.

III. APPLICABILITY: All Department employees, volunteers, persons or organizations conducting business with the Department; all offenders or detentioners under the supervision or custody of the Department.

IV. DEFINITIONS: None

V. POLICY: It is the policy of the Department of Correction to afford all offenders/detentioners the right to file a grievance without fear of reprisal or adverse action.

Procedures should be developed by the Bureau Chiefs for Prisons and Community Custody and Supervision to establish a grievance process for their respective offender/detentioner populations. The procedures shall require short, enforceable time frames for the grievance to be transmitted without alteration, interference, or delay to an individual designated responsible for receiving and investigating grievances who has the power to act. In addition, the procedures must require a short enforceable time limit, a written report of the final disposition, and an appeal mechanism that identifies the available levels of appeal.

STATE OF DELAWARE	PROCEDURE NUMBER:	PAGE:
BUREAU OF PRISONS	4.4	1 OF 7
PROCEDURE MANUAL	RELATED ACA STANDARDS: 36	
CHAPTER: 4 DECISION-MAKING RELATING TO INMATES	SUBJECT: INMATE GRIEVANCE PROCEDURE	
APPROVED BY THE CHIEF, BUREAU OF PRISONS.		
EFFECTIVE DATE: <i>Revised 5/15/98</i> <i>Paul W. Howard</i>		

I. AUTHORITY: DOC Policy 4.4

II. PURPOSE:

To establish an Inmate Grievance Procedure designed to reduce tension in correctional facilities and to effectively resolve the vast majority of cases within our system. Every inmate will be provided a timely, effective means of having issues brought to the attention of those who can offer administrative remedies before court petitions can be filed.

NOTE: Inmates are encouraged to seek their counselors' advice on how to best pursue a response to concerns before prematurely filing a grievance under the guidelines that follow.

III. APPLICABILITY:

All BOP employees, volunteers, persons or organizations conducting business with the BOP: all inmates under BOP custody or supervision.

IV. DEFINITIONS:

- A. Bureau Grievance Officer (BGO): A BOP employee who reviews and mediates appeal of the Warden's/Warden's Designee decision.
- B. Emergency Grievance: An issue that concerns matters which under regular time limits would subject the inmate to a substantial risk of personal, physical or psychological harm.
- C. Grievance: A written complaint concerning the substance or application of a policy or practice; any action toward an inmate by staff or other inmates; any condition or incident within the institution that affects an inmate.

STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.4	PAGE: 2 OF 7
SUBJECT: INMATE GRIEVANCE PROCEDURE		

- D. Inmate Grievance Chair (IGC): An institutional employee designated to handle inmate grievances.
- E. Inmate Grievance Procedure (IGP): The formal process provided to inmates to resolve disputes.
- F. Outside Reviewer: An individual not associated with DOC who hears inmate grievance appeals referred by the BGO and Bureau Chief of Prisons.
- H. Resident Grievance Committee (RGC): A committee comprised of institutional staff and inmates that hears inmate grievances and makes a recommendation to the Warden/Warden's Designee.
- I. Reprisal: Any action or threat of action against inmates or staff based solely on their participation or use of the IGP.
- J. Medical Grievance Committee (MGC): An institution's specific medical review authority comprised of a minimum of three medical services contractual staff from the following list:

Health Services Administrator  
 Director of Nursing  
 Charge Nurse  
 Chief Medical Officer  
 Medical Records Clerk  
 Mental Health Counselor  
 Chief Dental Officer  
 Dental Assistant

**V. PROCEDURE:**

- 1. Copies of the IGP shall be available in each institutional housing unit, in each library, in each counselor's office, and in each IGC office.
- 2. All inmates, regardless of physical condition/security status/administrative status, shall be entitled to use the IGP. Inmate complaints regarding policies and conditions must be within DOC jurisdiction. This includes actions by employees, inmates, and incidents occurring within the institution that affect them personally. NOTE: Policies that have their own formal appeal mechanisms are not grievable through the IGP. Specifically excluded from the IGP are issues concerning Disciplinary, Classification, and Parole



STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.4	PAGE: 3 OF 7
SUBJECT: INMATE GRIEVANCE PROCEDURE		

Board decisions.

3. The IGP shall afford the grievant a meaningful remedy. Relief may include an agreement by the Warden/Warden's Designee to remedy an objectionable condition within a reasonable, specified time period; change in institutional policy or practice; or restitution.
4. The IGP prohibits reprisals against staff or inmates for their use or participation in the process. If either participant experiences adverse reactions, they may appeal directly to the Warden/Warden's Designee. The Warden/Warden's Designee shall offer a written response within 10 calendar days upon receipt of the appeal. This decision is appealable to the Bureau Chief of Prisons for final disposition.
5. No staff or inmate named as a party to the grievance shall participate in any capacity in the resolution decision. This instruction includes contact for purposes of information gathering not merely decision making. Grievances filed against the IGC or appealing authority shall be referred to the next higher authority.
6. All grievances shall be kept separate from the inmate's master file. Neither staff or inmates shall have access to these records except to the extent necessary for clerical processing, resolution, or decision compliance.
7. The maximum period between initial grievance receipt and final appeal response shall not exceed 180 calendar days. If a full RGC cannot be convened as scheduled, another hearing shall be rescheduled within 7 calendar days.
8. Inmates are prohibited from submitting more than one grievance arising from a single incident.
9. If more than one inmate files a grievance on the same incident, the IGC will consolidate the staff investigations and RGC hearings into a single "group grievance". All individuals involved will be notified by the IGC.



STATE OF DELAWARE BUREAU OF PRISONS	PROCEDURE NUMBER: 4.4	PAGE: 4 OF 7
SUBJECT: INMATE GRIEVANCE PROCEDURE		

10. The IGC shall provide a copy of the response to each IGP step to the grievant within 7 calendar days of IGC receipt.
11. The RGC shall be comprised of two inmates who are elected by a majority vote from their own housing unit and two staff designated by the Warden/Warden's Designee. Designated staff should include custody and treatment staff, as well as, those who have frequent contact with the grievant's housing unit. Each RGC member has one vote; the IGC shall only vote to break a tie.
12. Inmate RGC members and two inmate alternates shall serve for a term of six months. Staff RGC members serve at the discretion of the Warden/Warden's Designee. One staff member shall be from Treatment and one from Security.
13. The RGC shall deliberate on its findings and forward its recommendation to the Warden/Warden's Designee.
14. All investigative work must be completed and documented prior to the RGC hearing.
15. Inmates are allowed to retract a grievance at any time during the process by written notice to the IGC.
16. The IGC shall submit a monthly IGP status report to the BGO and the Bureau Chief of Prisons.
17. The BGO and the Bureau Chief of Prisons share responsibility for IGP revisions/amendments. Distribution to all points of inquiry listed in #01 above shall be the responsibility of the Warden/Warden's Designee.
18. Remedies which are dependent on departments or agencies outside of the DOC may require more time for coordination of implementation steps. The IGC shall notify the grievant of the implementation plan and schedule upon receipt of written notification of concurrence by the outside entity.
19. The specific duties of the IGC and BGO are listed in the "Inmate Grievance Procedure Training Manual". Analysis of their performance is the sole responsibility of their immediate supervisors.

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#### IGP RESOLUTION LEVELS

##### Level I (Informal Resolution):

The IGP process begins when an inmate files Form #584. The grievant must complete this form within 7 calendar days following the incident and forward to the IGC. The IGC shall forward the grievance to the inmates' housing unit supervisors within two days of their receipt. Housing unit supervisors shall investigate, document all findings on Form #175, attempt resolution and report results to the IGC within 3 calendar days of their receipt of the grievance. Resolution ends the IGP process; the IGC closes the file and monitors issues of compliance. Unresolved grievances are referred to Level II administration.

##### Level II (RGC Recommendation/Warden's Decision):

The RGC will convene within 30 calendar days of IGC receipt of the grievance to examine the issue and documented investigative data from Form #175, hear testimony, and make a recommendation. The Grievant will be offered the opportunity to participate in the RGC hearing through examination of all information presented and discussion with all participants. The RGC shall ask any question it feels relevant to the issue. If the RGC determines that further investigation is required it may grant an additional five days, by majority RGC member vote and grievant consent, to complete its work. All RGC work is to be documented and forwarded to the IGC on Form #584 RGC Recommendation. The IGC forwards the RGC recommendation to the Warden/Warden's Designee. The Warden/Warden's Designee responds on Form #584 within 10 calendar days and forwards that response to the IGC for distribution. If the Warden/Warden's Designee and grievant concur with the RGC recommendation the grievance is deemed resolved; the IGC closes the file and monitors issues of compliance. If there is no concurrence, the case is referred to Level III administration.

##### Level III (The Final Decision):

The BGO will review the grievance file upon receipt. Concurrence with the Warden/Warden's Designee decision and signature by the BGO and Bureau Chief of Prisons ends the IGP process; the IGC closes the file and monitors issues of compliance. At the BGO's discretion, mediation between grievant and the Warden/Warden's Designee may be attempted or Outside Review recommended. The BGO shall recommend Outside Review in only those instances where interpretation of law or expansion of policy are necessary. The Bureau Chief of Prisons may accept or reject the BGO's written

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recommendation. Decisions by the Bureau Chief of Prisons are final and not open to grievant interpretation. The Bureau Chief of Prisons will return his final decision and the grievance file to the IGC for closure and monitoring for issues of compliance.

#### **Emergency Grievance:**

Issues that concern substantial risk of personal, physical or psychological inmate injury shall be addressed immediately by the Warden/Warden's Designee. A copy of the grievance shall be sent to the IGC upon receipt by the Warden/Warden's Designee. And the Warden/Warden's Designee shall respond within one calendar day. Grievant appeals of the Warden/Warden's Designee decision will be decided by the Bureau Chief of Prisons within one calendar day upon receipt of the emergency appeal. NOTE: If the Warden/Warden's Designee should determine that the grievance does not meet the emergency criteria, the grievance shall be returned to the inmate for processing through the normal IGP process steps.

#### **Medical Grievance:**

All medical grievances must be submitted to the Inmate Grievance Chairperson (IGC) at the respective institution on Form #585. If, by chance, an inmate sends a grievance directly to the medical services contractual staff, they are to forward it first to the IGC who will log it in the institution's grievance log and then return it to the medical services contractual staff for action.

The appropriate medical staff will review the grievance and denote actions taken on the Medical Log Form #586

The medical services contractual staff will attempt an informal resolution with the inmate, upon discussion over the treatment defined on the Medical Log Form. If the Medical Grievance is resolved the inmate acknowledges this by his signature on Form #585 Informal Resolution. This signed form is forwarded to the IGC who will close out the case.

Failure to resolve the grievance informally, results in a Medical Grievance Committee hearing which will not include any medical services contractual staff previously involved in the informal resolution process. The IGC and the inmate must be present at this hearing.

Resolution closes the case; failure to resolve the case results in the inmate completing the MGC Appeal Statement section of Form #585. Upon receipt, the IGC forwards the file to the Bureau



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Grievance Officer (BGO). The BGO recommends a course of action to the Bureau Chief of Prisons, who renders a final decision.

#### **Universal Grievance:**

Issues that concern the entire system and not just one inmate, a group of inmates, or one institution shall be presented by the BGO to the Bureau Chief of Prisons.

#### **Institutional Transfer:**

When possible, transfers shall be delayed for any inmate who has filed a grievance and been notified of an RGC hearing date until the hearing has concluded. If circumstance requires immediate transfer, the IGC at the institution where the grievant filed will proceed in the grievant's absence utilizing the normal IGP process steps through Level II. The Warden/Warden's Designee decision will be forwarded to the IGC at the grievant's new location for review. If the grievant appeals to Level III, the IGC at the grievant's new location shall forward the file to the IGC at the original location for BGO review. Grievances filed against the sending institution after an inmate's transfer, but inside the standard seven day window following an incident, shall be forwarded by the IGC at the new location to the IGC at the original location for processing.

#### **Appeals:**

Grievant appeals must be signed, dated and state the specific reasons on Form #584 Grievance Appeal. This form must be given to the IGC who is responsible for tracking the status of each grievance. The IGC will forward the appeal and grievance file to the BGO. Grievants shall have 3 calendar days upon receipt of their copy of the Warden/Warden's Designee decision to appeal, as well as, to include any additional information for review at the next level. NOTE: The Bureau Chief of Prisons decisions are final and not appealable.

#### **Attachments**



CORRECTION CODE OF PENAL DISCIPLINE

100 GENERAL PROVISIONS

PURPOSES AND OBJECTIVES

100.11 The purpose of this code is to establish a system of penal discipline which defines, and prescribes appropriate sanctions for, conduct that unjustifiably causes or threatens substantial harm to individual, institutional or state interests.

100.12 This Code will be construed according to the fair meaning of its terms, to promote justice and to accomplish the following general objectives:

- (a) To promote the safety and welfare of everyone within the institution.
- (b) To promote the efficient administration and operation of the institution.
- (c) To define what conduct is prohibited in the institution and state the sanctions that may be imposed to punish such conduct.
- (d) To prevent arbitrary or retaliatory treatment of inmates accused or convicted of offenses.
- (e) To prescribe penalties that are proportionate to the seriousness of the offenses.
- (f) Generally, to provide a climate of certainty within which both correctional staff members and inmates will have a clearer picture of the relationship of each to the other and each to the interests of the institution.

DEFINITIONS

100.31 "Willfully" - an inmate acts "willfully" with respect to his conduct or to a result thereof, when it is his conscious purpose

to engage in the conduct or cause the result.

100.32 "Bodily Injury" means physical pain, physical illness or the impairment of any physical condition.

100.33 "Contraband" means any article, substance or thing which is not authorized by The Department of Correction, obtainable through the institutional commissaries, specifically permitted by applicable prison regulations, or otherwise specifically authorized by the institutional Warden or his designee.

100.34 "Offense" means conduct that is prohibited by this Code.

100.35 "Deadly Weapon" means any firearm, weapon, or other device, instrument, material or substance which in the manner in which it is used or is intended to be used is capable of producing death or serious bodily injury.

100.36 "Privilege" means any benefit conferred upon the inmate population by institutional regulation.

ATTEMPT, CONSPIRACY, AND ACCESSORIES

100.37 Attempt: An inmate commits an attempt when he does an act which constitutes a substantial step in a course of conduct planned to result in the commission of a rule violation.

100.38 Conspiracy: An inmate commits a conspiracy when he agrees with one or more persons to engage in a rule violation and then acts to carry out that agreement.

100.39 Accessory: An inmate is an accessory if he knowingly provides assistance to an inmate committing a rule violation.

100.40 The offenses of conspiracy, attempt and accessory will be punishable in the same degree as the rule violation involved.

200. RULES

200.10 MINOR OFFENSES

200.101 Unauthorized Use of Property of Another: Taking, exercising control over or otherwise using the property of another person without the consent of the owner.

200.102 Off Limits

(a) Failing to report as prescribed to an appointed place of duty or assignment or to any other place where directed by the valid order of a correctional staff member.

(b) Leaving without permission from an appointed place of duty or assignment to any other place where directed to remain by the valid order of a correctional staff member.

(c) Entering or remaining in a prohibited area "Prohibited area" as used herein means any area to which inmate has not been authorized to be present.

200.103 Gambling: Organizing or participating in, wagers or games for personal gain, money or anything of value.

200.104 Refusal to Work: Refusing to perform work assignments.

200.105 Abuse of Privileges: Willful violation of any institutional regulation dealing with a privilege.

200.106 Creating a Health, Safety, or Fire Hazard: Activities which create a situation dangerous to the health or safety of persons within the institution, or create a danger of fire within the institution.

200.107 Damage or Destruction of Property (under \$10.00): Tampering with, damaging or destroying property belonging to the State of Delaware or to another person when the replacement value of such property is less than \$10.00.

- 200.108 Failing to Obey an Order: Willfully failing to obey any order issued by institutional staff.
- 200.109 Refusal to cooperate in Drug-Abuse Testing: Willfully refusing to provide a wine sample, to breathe into a breathalyzer or to participate in other drug-abuse testing.
- 200.110 Possession of Unauthorized Clothing: Possessing any article of clothing which is not specifically authorized for inmate wear.
- 200.111 Possession of Non-dangerous Contraband: Possession or control of any contraband which by its nature does not present substantial danger to the safety of persons within the institution.
- 200.112 Abuse of Prescribed Medication: Willfully hoarding medication which the inmate is authorized to receive.
- MAJOR OFFENSES
- 200.201 Assault: Willfully causing bodily injury to another person.
- 200.202 Sexual Misconduct: Willfully engaging or soliciting or attempting to engage in sexual relations with another person within the institution.
- 200.203 Disorderly or Threatening Behavior: (a) Fighting, or other violent, or threatening behavior. (b) Insulting, taunting or challenging another person, in a manner likely to produce a violent or disorderly response.
- 200.204 Restraint: Willfully restraining another person under circumstances which may expose the other person to a risk of bodily injury.
- 200.205 Theft: Willfully taking or withholding property of another person intending to keep such property from its owner.



- 200.206      Arson: Willfully starting a fire or causing an explosion within the institution.
- 200.207      Receiving Stolen Property: Receiving or possessing property of another person knowing that it has been stolen or believing that it has probably been stolen, unless a correctional officer has been notified or other reasonable efforts are made to restore the property to its owner.
- 200.208      Forgery: Falsely making, completing or altering a written document with intent to defraud or deceive another person.
- 200.209      Damage or Destruction of Property (over \$10.00): Tampering with, damaging or destroying property belonging to the State of Delaware or to another person when the replacement value of such property is equal to or exceeds \$10.00.
- 200.210      Influencing a Witness: While believing that an official proceeding or an official investigation is pending or about to be instituted:
- (a) Attempting to cause a witness to testify falsely or to withhold any testimony or information or other evidence; or
  - (b) Committing any act prohibited by these rules in retaliation for anything done by another person in his capacity as a witness; or
  - (c) Soliciting, accepting or agreeing to accept any benefit in return for providing false testimony or information or withholding any testimony or information or other evidence.
- 200.211      Bribery: Giving, offering or promising anything of value to any correctional staff member with the intent:

(a) To influence any act within the official responsibility of the officer; or

(b) To induce such correctional staff member to do or omit from doing any act in violation of his official duty.

200.212

Falsifying Physical Evidence: While believing that an official proceeding or an official investigation is pending or about to be instituted:

(a) Altering, destroying, concealing or removing anything with intent to impair its authenticity or availability in such proceeding or investigation.

(b) Presenting or using anything knowing it to be false, with intent to deceive a correctional staff member or anyone who is or will be a member of such proceeding or investigation.

200.213

Lying: Willfully making a false statement to a Department of Correction staff person with intent to deceive such staff member.

200.214

Escape: Leaving the confines of the institution (or from official custody while beyond the confines of the institution, or failing to return to official custody within the institution following temporary release from the institution) without proper authorization.

200.215

Inciting to Riot:

(a) Inciting or urging a group of two or more other inmates to engage in a current or pending riot; or

(b) Commanding, directing, instructing or signalling a group of two or more other inmates to cause, continue or enlarge a riot.

(A "riot" is a disturbance involving an assemblage of three or more

persons which by violent conduct creates a grave danger of damage or injury to property or persons and substantially disrupts the normal functioning of the institution through violence. An inmate may be found guilty of Inciting to Riot even where no riot actually occurs as a direct or indirect result of his urging.)

- 200.216      Engaging in a Riot: Participating in a riot which is in existence at the time of his act. However, no inmate who is merely present at the scene of an ongoing riot is guilty of an offense under this section, provided that he moves to a designated area after being directed to by proper authority.
- 200.217      Giving a False Alarm: Willfully communicating a false report concerning a fire, explosion, or other catastrophe or emergency where the report is likely to cause the evacuation of a building or to cause the correctional staff to respond in alarm.
- 200.218      Possession of Dangerous Contraband: Possession or control of contraband which by its nature presents substantial danger to the safety of persons within the institution, such as any deadly weapon or explosive device.
- 200.219      Possession of Intoxicant, Non-Prescribed Drugs, or Paraphernalia: Possession or control of intoxicating beverages, medication, or drugs not prescribed by a member of the institutional medical staff. Possession of paraphernalia necessary to administer such substances shall constitute a violation of this section.
- 200.220      Possession of Money and Coin: Possession of money, cash, currency or other forms of legal tender.
- 200.221      Using Intoxicants or Non-Prescribed Drugs: Use of any intoxicating beverages, medication, or drugs not prescribed by a

member of the institutional medical staff.

200.222 Possession of Staff Clothing: Possession of any article of clothing which is identifiable as part of, or an accessory to, the Department of Correction staff uniform.

200.223 Extortion, Blackmail or Protection: Demanding of, or receiving from, another person money or anything of value in return for protecting that person from others; refraining from committing bodily injury or sexual assault on that person or refraining from reporting to authorities any activity, real or fictitious, of that person.

200.224 Indecent Exposure: Willfully exposing the genitals or buttocks to any person other than another inmate under circumstances in which the conduct is likely to cause affront or alarm.

200.225 Inmate Demonstrations: (a) Inciting or urging two or more other inmates to engage in a disturbance involving non-violent conduct which substantially disrupts the normal functioning of the institution. (b) Participating in a disturbance involving non-violent conduct which substantially disrupts the normal functioning of the institution.

### 300 DISCIPLINARY PROCEDURES

300.001 Except as set forth under 300.160 and 300.250 herein, notice and hearing before a Hearing Officer, as set forth in this procedure, shall be provided prior to the imposition of any sanction as defined herein against an inmate for the violation of a rule of this institution.

#### Procedures following a Minor Offense.

300.110 A minor offense as defined at 200.101 - 200.112 is a rule violation in which the extent of the sanctions to be imposed



shall be restricted to:

- (a) Written reprimand;
- (b) Loss of one or more privileges for a period of time of more than 24 hours but less than 15 days.

300.120

Upon the reasonable belief of an institutional staff member that such an offense has been committed, he may file a written disciplinary report of the incident with the shift supervisor. Such report shall include:

- (a) The specific rule violated.
- (b) The facts surrounding the incident.
- (c) The names of witnesses to the incident, if any.
- (d) The disposition of any evidence involved.
- (e) Any immediate action taken.
- (f) The date and time of the offense.
- (g) The signature of the reporting officer.

300.130

Should a staff member believe an offense may be properly responded to by a verbal reprimand, warning and/or counseling, he may so respond, in which case no disciplinary report need be prepared. A counseling report of this action will be made by the staff member, a copy placed in the inmate's file and a copy given to the inmate. The inmate may prepare a response to counseling reports, which shall be placed with the report in the inmate's file.

300.140

Upon the filing of the disciplinary report alleging commission of a minor offense, the following steps will be undertaken.

Notice

300.141

A copy of the disciplinary report, as a notification of the charges, shall be given to the inmate at least 24 hours prior to

the hearing.

300.142 The notice shall advise the inmate of his rights in the disciplinary process.

Hearing

300.143 All hearings for minor offenses shall be conducted by an impartial hearing officer, who shall not have had a direct involvement with the alleged incident nor shall have had supervisory responsibility over the accused inmate during the six month period immediately preceding the hearing. The hearing officer shall be of a rank no lower than Lieutenant.

300.144 The inmate shall be present at all phases of the hearing, unless his behavior becomes disruptive to the proceedings. Reasons for such exclusion shall be stated in writing.

300.145 The inmate shall be allowed to make a statement and present any reasonable evidence, including written statements from others, in his behalf.

300.146 Unless the Hearing Officer feels additional oral testimony is necessary, his decision may be based on the disciplinary report, the statements of the inmate, and any other relevant written information presented at the hearing.

Record of Findings

300.147 Following the hearing, the Hearing Officer shall state in writing, his findings, the evidence relied on and the sanctions imposed, if any. No sanction shall be executed during the period referred to in 300.150 unless the inmate indicates in writing that he does not intend to appeal. (See explanatory note following 300.245).

Cumulative consecutive sanctions shall not be imposed for a

single act. (See e.g. 300.240.)

300.148 Copy of this report shall be given to the inmate.

Appeal

300.149 The inmate shall be advised of his right to appeal the decision to the Commissioner, Bureau Chief or their designee and shall be provided with an appeal form.

300.150 The appeal form must be completed and given to a shift commander or his assistant within 72 hours of the inmate's receipt of the record of the hearing. FAILURE TO COMPLY WITH THIS TIME LIMIT MAY CONSTITUTE GROUNDS FOR DISMISSAL OF THE APPEAL. The time limit shall run only while the inmate is incarcerated at the institution.

300.151 Upon the filing of the appeal form the Hearing Officer shall grant a stay of any sanction imposed at the disciplinary hearing until an appeal decision is rendered. (See explanatory note following 300.245.)

300.152 All appeals shall be heard by the Commissioner, Bureau Chief or their designee. The appeal decision shall be in writing and should be rendered within 10 days of receipt of the appeal. A copy of the decision shall go to the inmate.

300.153 The official hearing of the appeal may affirm the decision, reverse the decision, or remand the decision back to the Hearing Officer for further proceedings. Sanctions may be reduced, but not increased.

300.160 Notwithstanding any other provision of 300.130 and 300.140 to the contrary, should a shift supervisor, upon reviewing the disciplinary report, determine that an offense may be properly responded to by an immediate revocation of one or more

privileges for a period of time not to exceed twenty-four hours, he may so respond.

300.161 As used in this subsection, the term "privilege" shall not include attendance at educational classes, vocational training sessions, counseling sessions, alcohol/drug rehabilitation programs, regular job assignments or religious services, nor shall it include any right which is secured to an inmate by the Constitution or any law of the United States or the State of Delaware.

Procedures Following a Major Offense

300.210 A major offense as defined in 200.201 - 200.225 is a rule violation in which a more severe sanction may be imposed than permitted for a minor offense. Sanctions which may be imposed for a major offense shall be restricted to:

- (a) Written reprimand.
- (b) Loss of one or more privileges for a period of time of more than 24 hours but less than 60 days.
- (c) Confinement to assigned quarters for a period of time not to exceed 30 days.
- (d) Isolated confinement for a period of time not to exceed 15 days.
- (e) Loss of good time for a period of time not to exceed 30 days.

300.211 Forfeiture of accumulated good time shall be subject to the approval of the Commissioner or his designee.

300.220 Upon the reasonable belief of an institutional staff member that such an offense has been committed, he shall file a written disciplinary report of the incident with the shift supervisor.



Such report shall include:

- (a) The specific rule violated.
- (b) The facts surrounding the incident.
- (c) The names of the witnesses to the incident, if any.
- (d) The disposition of any evidence involved.
- (e) Any immediate action taken.
- (f) The date and time of the offense.
- (g) The signature of the reporting officer.

300.230 Upon the reporting of the alleged major offense, the following steps will be undertaken.

Notice

300.231 A copy of the disciplinary report, as a notification of the charges, shall be given to the inmate at least 24 hours prior to a hearing.

300.232 The notice shall advise the inmate of his rights in the disciplinary process.

Pre-hearing detention

300.233 Until the hearing, the inmate is entitled to remain in his existing status, unless he becomes a sufficient threat to other inmates, staff members, or himself to warrant pre-hearing detention.

300.234 If pre-hearing detention is ordered by the shift supervisor such order must be reviewed by the superintendent or his designee within 24 hours. Failure to do so will return the inmate to his previous status.

300.235 Any time spent in pre-hearing detention shall be credited against any subsequent sanction imposed.

Hearing

300.236 All hearings for major offenses shall be conducted by an impartial Hearing Officer, who shall not have had supervisory responsibility over the accused inmate during the six month period immediately preceding the hearing. A hearing officer shall be disqualified to preside over hearings in which he witnessed the incident in question, was involved in preparation of the charge, or is otherwise biased against the inmate who is the subject of the hearing. The hearing officer shall be of a rank no lower than Lieutenant.

300.237 At the hearing, the inmate shall be entitled to the following:

- (a) An opportunity to be present during all phases of the hearing, except that he may be excluded during the Hearing Officer's deliberations and at any time the inmate's behavior becomes disruptive to the proceedings. Reasons for such exclusion shall be stated in writing.
- (b) The accused inmate may consult with counsel or counsel substitute prior to the hearing. At the hearing, an inmate may be accompanied by a counsel substitute who may be either a staff member or an approved inmate. The extent to which counsel substitutes may present an inmate's case at a disciplinary hearing shall be within the discretion of the Hearing Officer, taking into consideration such factors as illiteracy and intelligence of the inmate, the complexity of the issues under consideration, and any other factors which may prevent the inmate from making a complete presentation on his own behalf.

(c) Copies of any written information which the Hearing Officer

may consider except where disclosure of such information would be unduly hazardous to institutional safety or would endanger the physical safety of an individual; reasons for non-disclosure to be stated in writing. In all other cases where written information is not disclosed, its contents will be summarized for the inmate to the extent this may be done without creating a substantial risk to institutional or personal safety.

- (d) An opportunity to make a statement and present documentary evidence.
- (e) An opportunity to call witnesses on his behalf unless doing so would be irrelevant, redundant, unduly hazardous to institutional safety or would endanger the physical safety of any individual; such reasons for denial to be stated in writing.
- (f) An opportunity to confront and cross-examine his accuser and all adverse witnesses, unless doing so would be unduly hazardous to institutional safety or would endanger the physical safety of the witness; such reasons for denial stated in writing.

300.238 At any time during the hearing, the Hearing Officer may exclude evidence, although relevant, if its evidential value is substantially outweighed by considerations of undue delay, waste of time, or needless presentation of cumulative evidence; such reasons to be stated in writing.

300.239 At any time during the hearing, the Hearing Officer on his own motion, may order an investigation into the incident and continue the hearing at a future time.

Decision and Record of Finding

300.240

At the conclusion of the hearing the Hearing Officer shall announce the decision and sanction if any. The decision shall be put in writing, and a copy shall be given to the inmate. The imposition of any of the sanctions enumerated in 300.210 above may be suspended and, in lieu thereof, the inmate may be placed upon probation for a period of time not to exceed 90 days. No sanction shall be executed during the period referred to in 300.244 unless the inmate indicates in writing that he does not intend to appeal. (See explanatory note following 300.245.) Cumulative consecutive sanctions shall not be imposed.

- (a) Permissible e.g.: Inmate swears at and strikes a correctional officer. He may be sanctioned for "Disrespect to a correctional officer" and "Assault on a correctional officer".
- (b) Impermissible e.g.: Inmate uses profane language to a correctional officer. He may not be given cumulative consecutive sentences for "Abusive language" and "Disrespect to a correctional officer".

300.241

In addition to the written decision and sanction notice, the Hearing Officer shall prepare a written record of the hearing. Such record should be completed within five working days of the hearing and shall contain:

- (a) The Hearing Officer's decision.
- (b) The sanction imposed.
- (c) A summary of the evidence upon which the decision and sanction were based.
- (d) A list of all witnesses and a summary of their testimony.



(e) A statement as to whether the sanction is stayed during an appeal and the reasons for that decision.

(f) The date and time of the hearing.

(g) The signature of the Hearing Officer.

300.242 A copy of the written record shall be given to the inmate.

Appeal

300.243 The inmate shall be advised of his right to appeal the decision to the Commissioner, Bureau Chief or their designee and shall be provided with an appeal form.

300.244 The appeal form must be completed and given to a Shift Commander or his assistant within 72 hours of the inmate's receipt of the record of the hearing. FAILURE TO COMPLY WITH THIS TIME LIMIT MAY CONSTITUTE GROUNDS FOR DISMISSAL OF THE APPEAL. The time limit shall run only while the inmate is incarcerated at the institution.

300.245 Upon the filing of the appeal form, the Hearing Officer shall grant a stay of any sanction imposed at the disciplinary hearing until an appeal decision is rendered. EXPLANATORY NOTE: For both major and minor offenses, the execution of the sanction is automatically stayed for 72 hours immediately following the inmate's receipt of the record unless the inmate indicates, in writing, that he does not intend to appeal. The purpose of the automatic stay is to afford an inmate time to decide if he wishes to appeal. If the inmate files a timely appeal form, 300.147 and 300.240 provide that the hearing officer must stay the execution of the sanction until an appeal decision is rendered. If no appeal form is filed within the stated time period or, if during the stated time period, the inmate

indicates in writing that he does not intend to appeal, the sanction shall be executed.

300.246 All appeals shall be heard by the Commissioner, Bureau Chief, or their designee. The appeal decision shall be in writing and should be rendered within ten days of receipt of the appeal. A copy of the decision shall go to the inmate.

300.247 The official hearing of the appeal may affirm the decision, reverse the decision, or remand the decision back to the Hearing Officer for further proceedings. Sanctions may be reduced, but not increased.

300.250 Notwithstanding any other provision of 300.230 to the contrary, should a Shift Supervisor, upon reviewing the disciplinary report, determine that an offense may be properly responded to by an immediate revocation of one or more privileges for a period of time not to exceed 24 hours, he may so respond.

300.251 As used in 300.250, the term "privilege" shall not include attendance at educational classes, vocational training sessions, counseling sessions, alcohol/drug rehabilitation programs, regular job assignments or religious services. Nor shall it include any right which is secured to an inmate by the Constitution or any law of the United States or the State of Delaware.

#### Expungement

300.300 If an inmate is found not guilty of an offense, major or minor, all reference to that offense shall be removed from his file, if reasonably possible. Otherwise, the finding of not guilty shall be clearly indicated in his file.

Procedures Following Criminal Misconduct

300.410 Upon the determination of the shift supervisor or the Hearing Officer that an inmate has committed a criminal offense, the Warden or his designee will be notified without delay. The proper law enforcement authority shall then be notified.

300.420 Any disciplinary hearing for this alleged offense shall be conducted in accordance with 300.236 - 300.237 and the inmate shall be advised that he has the right to remain silent in the hearing and that his silence will not be construed adversely against him at the hearing.

Procedures Following an Emergency

300.510 In the event of a widespread institutional disruption which requires emergency action, any or all portions of these regulations may be temporarily suspended.

300.520 Any inmate involved in the emergency may be detained without a hearing throughout the course of the emergency.

300.530 Upon the restoration of order, all inmates who were detained shall be accorded all disciplinary procedures as provided by this regulation.



STATE OF DELAWARE  
DEPARTMENT OF CORRECTION  
**MEDIUM-HIGH COUNSELOR'S OFFICE**  
DELAWARE CORRECTIONAL CENTER

1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977  
TELEPHONE: (302) 653-9261

TO: New Transfers to Building 22

FROM: Cindy Atallian  
Counselor – 22

DATE: July 6, 2006

RE: Information for Building 22

If you are receiving this memo, you have recently transferred to Building 22. I will be your counselor while you are in this building. I have tried to outline a few areas of which you may have questions or concerns at this time.

- Contacts: You can write to me at any time. When doing so, please include your name, SBI number and cell location. I will respond within two weeks. It is not necessary to write more than once, as I will always respond or see you. If you have questions or concerns that need research, please give me as much information as possible, and I will try to find an answer for you. If you need to be seen, I will schedule time, but I do my contacts right on the tier. If you are not comfortable talking about an issue, feel free to write.
- Phone Sheets: You can mail a phone sheet in to me at any time. However, I will not submit the phone sheet until I have come and seen you personally to be sure that the sheet is legitimately from you. This stops abuse from anyone that might be trying to use another person's numbers. Also, any attorney number listed will be personally contacted by me to confirm that it is an attorney number. At this time, I am able to submit sheets throughout the month, although that could change to the 5<sup>th</sup> of the month.
- Classifications: Since you just moved to 22, you should have been classified (unless you are coming from building 23). Many people are moved to 22 while waiting for space for another area. If you are a newly sentenced individual, and you just had your initial classification, you should have a yellow sheet showing what security level you are approved for at this time. If it does not say medium high, you are only here waiting for space for another area. If you are classified from some other building, your sending counselor will have prepared a classification. The IBCC will establish when your next review will occur. I cannot arbitrarily reclassify someone when they come to my building, unless one of the following applies:



Information for Building 22  
Page Two

- You had open charges that have been processed.
  - You have gone before your Judge, and your sentence has changed to some type of court ordered program (this does not mean that you were already sentenced and just came out of building 21 and now want to go to the program). I could not do that until the review date established by the IBCC.
  - You were moved for disciplinary reasons and were found not guilty of EVERY charge.
  - My supervisor approves a classification and advises me of such.
- Programming: Currently, I have Peer Relations running in Building 22 and Relationships beginning. If you are interested, check off the box on the attached sheet.
- Release Planning: If you have a release in the near future, I will send you a release-planning package prior to your release.

Also attached, you will find a form with certain categories of interest to individuals when they first arrive in 22. Check off as many boxes that apply to you and I will process your requests.

If you have any questions, feel free to write at any time.

TO: JAMES ST. LOUES SBI: 446578DATE: 10 APR 06

FROM: MDT Classification Review

Re: Routine Classification

This is to inform you that the Multi-Disciplinary Team (MDT) has classified you to MEDIUM H/C Security Level. You will be required to complete your treatment plan and follow institutional rules. Negative behavior, excessive write-ups, or failure to complete your treatment plan will result in a higher security level. Your individual treatment plan is listed below and your assigned counselor will monitor your progress. Direct any questions to your primary counselor.

NOTE: This classification is subject to higher review.

## TREATMENT PLAN

MEDIUM HIGH CUSTODYMHU PROGRAMSInmate Signature: James St. LouesDate: 4/10/2006Next Review: 4/07RA Score: 16

# LETTER OF APPRECIATION

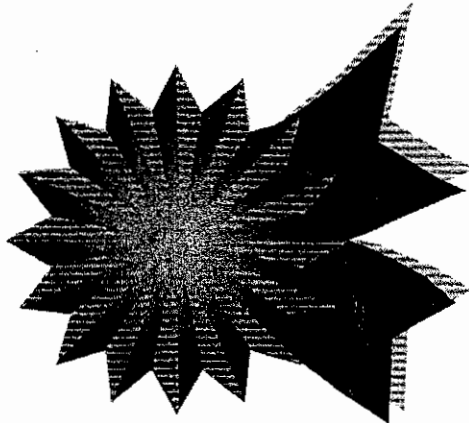
is hereby granted to:

St Louis, James SBI # 446518

for outstanding performance and lasting contribution on

*The extra effort and team work that  
you have shown for the completion of  
the Thanksgiving Holiday Meal*

*Granted: November 28, 2003*



*Harry Legates, Robin White*  
Food Service Supervisor  
Harry M. Legates / Robin White

#0014

IM: James St. Louis  
SBI# 446518 UNIT D/E

DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977



*Dep. Mail*



*Dep. Mail*

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